

ARTICLE

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Changes in federal and state unemployment insurance legislation in 2013

State legislation included provisions to prohibit noncharging of benefits when erroneous payments are made to an individual on the basis of employer fault, assess penalties on fraudulent overpayments due to claimants, and deposit penalty recovery into the state's Unemployment Trust Fund. In addition, legislation includes provisions on reporting of rehires to the Directory of New Hires.

Bipartisan Budget Act of 2013 (Pub. L. 113-67), enacted December 26, 2013

Mandatory use of Treasury Offset Program. This enactment amends the Social Security Act to require states to use the Internal Revenue Service Treasury Offset Program to recover a covered unemployment compensation debt that is uncollected a year after the debt was determined due.¹

The following is a summary of some significant changes in state unemployment insurance laws that occurred during 2013.

Alabama

Administration. The title “director of the Department of Industrial Relations” changed to “Commissioner of the Alabama Department of Labor.”

Financing. The September 30, 2013, ending date for the quarterly 0.06-percent special assessment used to fund the Employment Security Enhancement Fund is deleted.

The September 30, 2013, ending date for the current tax rate structure for determining an employer's contribution rate is deleted.

The unemployment compensation account of any employer will be charged when a claimant is overpaid because the employer, or an agent of the employer, failed to respond timely or adequately to a request for information relating to an unemployment claim and when the employer or an agent of the employer has established a pattern of failing to respond timely or adequately to a request for information relating to an unemployment claim on two or more occasions, effective October 21, 2013.

Alaska

Administration. The Commissioner of the Alaska Department of Labor and Workforce Development is authorized to allow the use of electronic filing methods of certain information in addition to other filing methods. Electronic filings authorized will be considered as equivalent to paper filing for complying with other requirements and for determining civil or criminal penalties for any violations.

Financing. The state legislature is permitted to appropriate money to the state Unemployment Compensation Fund.

An employer's account may not be relieved of charges relating to an erroneous payment made from the Unemployment Trust Fund account if (1) the erroneous payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to a documented request for information relating to the claim for unemployment compensation and (2) the employer, or an agent of the employer, has established a pattern of failing to respond timely or adequately to requests for claim information. This requirement applies to overpaid benefits established after October 21, 2013.

The word “surcharge” follows the words “fund solvency adjustment” in the language relating to the rate of contributions for each employer.

An employer will pay a fund solvency adjustment surcharge if the reserve rate is less than 3.0 percent. The surcharge is a percentage equal to the difference between 3.0 percent and the reserve rate, rounded to the nearest one-hundredths of 1.0 percent. An employer will receive a fund solvency adjustment credit if the reserve rate is greater than 3.3 percent. The credit is a percentage equal to the difference between 3.3 percent and the reserve rate rounded to the nearest one-hundredths of 1.0 percent. The solvency surcharge may not be greater than 1.1 percent, and the solvency credit may not be greater than 0.4 percent. However, an employer’s fund solvency adjustment surcharge may not increase more than 0.3 percent from one year to the next. (Previous law provided that an employer will pay a fund solvency adjustment equal to the contribution rate set out in column B of the contribution rate table opposite the reserve rate of the fund set out in column A of the rate contribution. However, the fund solvency contribution rate of an employer may not increase or decrease more than three-tenths of 1 percent from one year to the next.)

Language relating to rate increase reductions is added as follows: When the most current average high-cost multiple published by the U.S. Department of Labor, Employment and Training Administration, is 0.8 or above on September 30 in the year preceding the year for which rates are being calculated, the commissioner will consult with the actuary in the Department of Labor and Workforce Development regarding the expected unemployment rate for the next tax year, the expected number and amount of state funds needed to pay claims for state-funded benefits for the next tax year, and the expected amount of state tax revenue. On the basis of the actuary’s advice and any other relevant information, the commissioner may suspend, in whole or in part, any unemployment rate of contribution increases that would have occurred for that year under the calculation of the rate of contributions. If an increase of the rate of contribution calculated is suspended, in whole or in part, the calculation of the fund solvency adjustment surcharge for the subsequent year must refer to the results of the last rate of contribution calculation for which the increase was not suspended, in whole or in part, when determining the level from which the fund solvency adjustment may not increase by more than 0.3 percent. “Average high-cost multiple” has the meaning given in the Code of Federal Regulations. This language will be repealed July 1, 2016.

Language relating to the participation in the Treasury Offset Program is added as follows: In addition to any remedies authorized, the department may offset any covered unemployment compensation debt against a claimant’s federal income tax refund in accordance with federal law. “Covered unemployment compensation debt” means (1) a past-due debt for erroneous payment of unemployment compensation because of fraud or the person’s failure to report earnings that has become final and that remains uncollected, (2) contributions due to the Unemployment Trust Fund account for which a person is liable and that remain uncollected, and (3) any penalties and interest assessed on the debt.

The department must deposit in the state Unemployment Trust Fund account a minimum of 30 percent of the 50-percent penalty of benefits collected because of benefits obtained or increased from misrepresentation or fraud (15 percent).

Overpayments. The language authorizing the department to waive the collection of the assessment of an additional 50-percent penalty of benefits obtained fraudulently is deleted.

Arizona

Administration. The Arizona Department of Economic Security will require an individual claiming benefits to provide information and documents on which the claim is based at the time of filing the claim and provide documentation or information sufficient to determine the individual's eligibility for benefits. If an individual who files a claim for benefits has the ability to produce documents or information and fails to produce the documents or information, the department may find the individual's claim for unemployment benefits invalid until the individual produces the documents or information.

On request by the department, an employer will provide relevant documentation to allow the department to determine the individual's eligibility for benefits.

If an employer provides documentation that an individual either voluntarily resigned from employment or abandoned the employment, the burden of providing documentation to determine eligibility for benefits shifts to the individual. Such documentation may include written or verbal statements from the employer detailing the individual's circumstances for leaving employment. If the individual did not provide a written resignation, supporting documentation of a voluntary resignation may include an employer's attestation of the individual's verbal resignation and that work was available for the individual; job abandonment may include an attestation from the employer that the individual failed to report for assigned work and that work was available for the individual.

Notwithstanding the provisions regarding the requirements to provide documentation or information, the department will make reasonable efforts to obtain the information necessary to determine the eligibility of the individual.

Coverage. The definition of "employee" excludes an individual to whom all the following apply:

- Performs officiating services in recreational, interscholastic, or intercollegiate sporting events or contests on a contest-by-contest basis
- Has the ability to accept or reject assignments to officiate a sporting event or contest
- Has the right to officiate contests for multiple organizations or entities
- Is not otherwise employed by the sponsoring school, association of schools, or the organization; this state; or a political subdivision of this state sponsoring the sporting event or contest

"Officiating services" means overseeing the play of a sporting event or contest, judging whether the rules are being followed, and penalizing participants for infringing the rules.

"Employment" excludes service performed in the employ of a church or convention, an association of churches, or an organization that is operated primarily for religious purposes, including educational and childcare services that include religious instruction and is operated, supervised, controlled, or principally supported by a church or convention or an association of churches, unless the services are performed for the state and local governmental entities, federally recognized Indian tribes, or nonprofit organizations.

Overpayments. If benefits to which a person is not entitled are received by reason of fraud, the person is not eligible to receive any benefits until the total amount of the overpayment and all penalties and interest have been recovered or otherwise satisfied in compliance with a civil judgment.

Arkansas

Administration. The Department of Workforce Services is authorized to use part-time or temporary employees when appeals cannot be timely resolved and to determine the appropriate funding source, effective July 1, 2013, through June 30, 2014.

An employer will report electronically or in any manner authorized by the department for inclusion in the state New Hire Registry (1) when an employee is newly hired or (2) if the employee who was previously employed by the employer but has been separated from the previous employment for at least 60 consecutive days returns to work. An employer will include in each report, among other things, the name, address, and Social Security number of the employee and the date the employee began performing services for the employer.

The following additional subsections to the section concerning ineligibility for extended unemployment benefits for failure to accept or seek suitable work have been added to the law:

1. The Department of Workforce Services will enforce this section.
2. The director will make quarterly reports to the Legislative Council on the department's efforts to enforce this section, including without limitation (a) the number of cases of benefit recipients accused of not accepting valid job offers, (b) the disposition of cases reported under subdivision 2(a) of this section, and (c) the policies and steps the department is taking to eliminate and reduce refusals to accept valid job offers.
3. (a) The department will facilitate electronic reporting of a benefit recipient who refuses to take an offered job either through outright refusal, failing a drug test, or other means. (b) The department may facilitate electronic reporting under subdivision 3(a) of this section by an easy-to-understand and -use website created for the purpose or created for another purpose that facilitates easy reporting by potential employers and others.
4. (a) The department will notify periodically an employer regarding the method for reporting a benefit recipient who fails to take a job either through outright refusal, failing a drug test, or other means. (b) The department may notify an employer at least two times a year regarding the method for reporting under subdivision 4(a) of this section by electronic means that are economically feasible and may be a part of another communication to the employer.
5. (a) An employer that provides a report, with the belief that it is true, of a failure to take a job, whether by outright refusal, failure to show up for work or interview, failing a drug test, or other means is not liable for the reporting. (b) This section provides a complete defense for an employer in a civil proceeding arising from an employer's actions under this section.

The Department of Finance and Administration is required to establish and maintain a webpage, with assistance from the Department of Workforce Services, to provide a menu of links to employer-related applications for required reporting, tax payments, and other data submissions and to provide information about tax submissions, employment reports, child support submissions, including due dates, payment options, and agency contact information. The initial scope of the webpage will include

- online taxpayer services through the Arkansas Taxpayer Access Point webpage
- unemployment and new hire submissions administered by the Department of Workforce Services
- information concerning employer reporting and payment functions provided by the Office of Child Support Enforcement
- flexibility to allow additional links to other state agencies to be added as appropriate.

Coverage. The definition of "employment" excludes services performed as personal care services for a licensed certified ElderChoices provider, unless the provider is a state or local government entity or federally recognized Indian tribe or a nonprofit organization, retroactive to January 1, 2010.

Financing. Reed Act funds are available, as prescribed by Section 903 of the Social Security Act, for construction and improvement of buildings, rent or lease costs, acquisition of land, payment of salaries

and related benefits, maintenance and operation of central and local offices, or payment of unemployment compensation benefits, effective July 1, 2013, through June 30, 2014.

The following language concerning an employer's additional contribution assessments has been added to the law:

- "Furthermore, for calendar years beginning January 1, 2014, and thereafter, after 2 consecutive years of being assessed an additional contribution of 4 percent under the language in the law preceding this language, the additional contribution assessment will increase to 6 percent.

- Furthermore, for calendar years beginning January 1, 2014, and thereafter, after 2 consecutive years of being assessed an additional contribution of 6 percent as set out in the above dot point, the additional contribution assessment will increase to 8 percent."

An employer will not be granted relief from charges if (1) an overpayment of benefits is the result of a failure by an employer, or the employer's agent, to respond timely or adequately to a request for information from the department and (2) the employer, or the employer's agent, has established a pattern of failing to respond to such requests.

Nonmonetary eligibility. In all cases of discharge for absenteeism, the individual will be disqualified if the discharge was pursuant to the terms of a bona fide written attendance policy regardless of whether the policy is a fault or no-fault policy. Misconduct includes

- violation of any behavioral policies of the employer as distinguished from deficiencies in meeting production standards or accomplishing job duties
- without limitation, a disregard of an established bona fide written rule known to the employee or a willful disregard of the employer's interest.

If an individual is discharged from his or her last work for misconduct connected with the work because of dishonesty; drinking on the job; reporting for work while under the influence of intoxicants, including a controlled substance; or willfully violating bona fide written rules or customs of the employer, including those pertaining to his or her safety or the safety of fellow employees, persons, or company property, harassment, unprofessional conduct, or insubordination, the individual will be disqualified until, subsequent to the date of the disqualification, the claimant has been paid wages in two quarters for insured work totaling not less than 35 times the individual's weekly benefit amount.

In cases of discharge for absenteeism, the individual will be disqualified for misconduct in connection with the work if the discharge was pursuant to the terms of a bona fide written attendance policy with progressive warnings, regardless of whether the policy is a fault or no-fault policy.

Misconduct in connection with the work includes the violation of any behavioral policies of the employer as distinguished from deficiencies in meeting production standards or accomplishing job duties. Misconduct in connection with the work will not be found for instances of poor performance unless the employer can prove that the poor performance was intentional.

An individual's repeated act of commission, omission, or negligence despite progressive discipline constitutes sufficient proof of intentional poor performance. An individual who refuses an alternate suitable job rather than being terminated for poor performance will be considered discharged for misconduct in connection with the work.

The disqualification for benefits of an individual discharged from his or her last work for misconduct in connection with the work and the disqualifications just mentioned in the preceding paragraphs will continue until, subsequent to filing a claim, the individual has had at least 30 days of covered employment in Arkansas, another state, or the United States.

The following provisions were deleted: Except as otherwise provided in this section, an individual's disqualification for misconduct will be for 8 weeks of unemployment. However, for a discharge that

occurs on or after July 1, 2009, through June 30, 2013, the 8-week disqualification will continue until, subsequent to filing a claim, he or she has had at least 30 days of employment covered by an unemployment compensation law of Arkansas, another state, or the United States.

Overpayments. The disqualification provisions relating to penalty for false statement or misrepresentation are modified by providing that any weekly benefits payable subsequent to the date of delivery or mailing of the determination will be terminated. (Previously, the law provided that the weekly benefits payable will be reduced 50 percent rounded to the next lower dollar and that the remainder of maximum benefits will be reduced accordingly.) The termination will apply only to benefits payable within the benefit year of the claim with respect to which the claimant willfully made a false statement or misrepresentation. The disqualification will not be applied after 2 1/2 years (previously 5 years) have elapsed from the date of delivery or mailing the determination of disqualification relating to fraud.

A penalty of 15 percent (previously 10 percent) of the amount of the overpayment at the time the overpayment becomes final will be assessed on all fraudulent overpayments. The following language has been deleted: “however, this penalty will be waived in the event that overpayment is repaid within 1 year after the established date.”

If a person has received an amount as benefits to which he or she was not entitled by reasons other than fraud, willful misrepresentation, or willful nondisclosure of facts, the person is liable to repay the amount to the Unemployment Compensation Fund.

A penalty payment recovered from an overpayment to a claimant will be deposited into the Unemployment Compensation Fund. (Previously, the penalty payment was deposited into the Department of Workforce Services Special Fund.)

The department may issue an overpayment determination contemporaneously with any other determination.

The deductions of overpayments because of fraud or nonfraud from future benefits may proceed during an appeal of the overpayment determination.

Colorado

Administration. Notwithstanding the confidentiality requirements, the Division of Employment and Training may offer veterans and other persons seeking employment the opportunity to waive the confidentiality of certain information including the person’s name, address, telephone number, and email address so that the division may make available the waived information to bona fide employers seeking employees.

Nonmonetary eligibility. When an individual receives a lump-sum retirement payment that has been contributed to by a base-period employer, under certain conditions the individual’s benefits will be postponed for a number of calendar weeks equal to the gross amount of the lump-sum payment divided by the individual’s full-time weekly wage. However, when an individual receives a lump-sum retirement payment but only reinvests a portion of that payment, or when an individual otherwise withdraws an amount that is less than the total lump sum of the account, then the Division of Employment and Training will consider only the portion that is received but not reinvested in determining the number of calendar weeks that the individual’s benefits are postponed. (Previously, when an individual receives a lump-sum retirement payment that has been contributed to by a base-period employer, under certain conditions, the individual will be determined to have received, from the date the payment was received by the individual, the individual’s full-time weekly wage for a number

of consecutive weeks equal to the total amount of the lump-sum retirement payment, divided by the full-time weekly wage, applicable to unemployment insurance claims on or after April 4, 2013.)

Connecticut

Administration. The Connecticut Labor Department will conduct a study to explore (1) allowing teachers who are currently eligible to receive unemployment compensation to pursue certain certifications, credentials, endorsements, or specialized training without risk of losing their unemployment benefits and (2) allowing individuals who are currently eligible to receive unemployment compensation to develop a new business without risk of losing their unemployment benefits. On or before October 1, 2014, the department will submit the findings of such study to the joint standing committee of the general assembly having cognizance of matters relating to labor and public employees.

A provision in state law or regulation that conflicts with federal law will be deemed invalid or not in effect.

Commencing with the first calendar quarter of 2014, each employer or agent of the employer is required to submit quarterly wage reports for employees and make contributions or payments in lieu of contributions on magnetic tape, diskette, or other similar electronic means unless a waiver is granted. (Previous law required such information be submitted on magnetic tape, diskette, or other similar electronic means if the employer, or an agent of the employer, reported for 250 employees or more, unless such employer, or an agent of the employer, demonstrated that it lacked the technological capability to report such information electronically.)

Any employer, or an agent of the employer, submitting quarterly wage reports or making contributions or payments in lieu of contributions may request a waiver of the electronic filing in writing, not later than 30 days prior to the date a submission is due. The administrator of the Connecticut Labor Department will grant such request if, on the basis of information provided, there would be undue hardship for such employer, or an agent of the employer, and inform such employer, or an agent of the employer, of the granting or rejection of the requested waiver. The decision of the administrator will be final and not subject to further review or appeal. Such waiver will be effective for 12 months from the date granted.

Any employer not previously subject to the state's unemployment compensation law that becomes subject to the state's unemployment compensation law will provide electronic notice of the same to the administrator, in a manner prescribed by the administrator, not later than 30 days after becoming subject to the state's unemployment compensation law; any employer that fails to provide electronic notice will be liable for a civil penalty of \$50 for each violation.

Any employer acquiring substantially all the assets, organization, trade, or business of another employer subject to the state's unemployment compensation law will provide electronic notice of such acquisition to the administrator, in a manner prescribed by the administrator, not later than 30 days after such acquisition; any employer that fails to provide electronic notice will be liable for a civil penalty of \$50 for each violation. Trade or business includes an employer's employees.

Any employer that fails to submit timely quarterly wage information under a proper state unemployment compensation registration number will be liable for a fee of \$25, which will be deposited in the state's Employment Security Administration Fund.

Coverage. Service performed by a motor vehicle operator transporting property for compensation pursuant to an agreement with a contracting party is excluded from coverage, if the

- motor vehicle has a gross vehicle weight rating in excess of 10,000 pounds;

- operator owns such motor vehicle or holds it under a bona fide lease arrangement;
- operator's compensation is based on mileage-based rates, a percentage of any schedule of rates, or the hours or time expended in relation to actual performance of the service contracted for, or an agreed-on flat fee; and
- operator may refuse to work without consequence and may accept work from multiple contracting entities in compliance with statutory and regulatory limitations without consequence.

Financing. For combined wage claims, each employer whose experience record has been charged since the previous calendar quarter will receive a statement of charges that includes the individual's name, Social Security number, and amount of benefits charged for the quarter.

Of penalties collected for overpayments because of fraud, 35 percent will be paid to the state's Unemployment Compensation Trust Fund and 65 percent to the Employment Security Administration Fund.

For determinations made on or after October 1, 2013, the employer will not be relieved of its proportionate share of charges for

- each week determined to be overpaid, if the overpayment was the result of the employer's failure to respond timely or adequately to the request for claim information; and
- benefits paid prior to the issuance of a decision, if the employer fails to appear at the hearing or fails to submit a timely and adequate written response to the request for claim information.

Overpayments. Overpayments made because of fraud, willful misrepresentation, or willful nondisclosure may be recovered through an offset against the individual's state or federal tax refund.

For determinations made on or after October 1, 2013, the penalty for overpayments made because of a false statement or failure to disclose a fact in order to obtain or increase benefits will be 50 percent of the overpayment for the first offense and 100 percent for any subsequent offense (previously, a benefit forfeit of 1–39 weeks). The penalty will be in addition to the liability to repay the overpayment and will not be confined to a single benefit year.

Delaware

Financing. An employer's account may not be relieved of charges relating to an erroneous payment made from the Unemployment Trust Fund account if the erroneous payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to a documented request for information relating to the claim for unemployment compensation. This provision applies to both fraud and nonfraud overpayments of unemployment insurance benefits established after October 21, 2013.

The \$10,500 taxable wage base changes as follows: after December 31, 2013, the taxable wage base is equal to

- \$18,500 if the balance in the Unemployment Insurance Trust Fund is \$125 million or less as of the preceding September 30
- \$16,500 if the balance in the Unemployment Insurance Trust Fund is greater than \$125 million but less than \$175 million as of the preceding September 30
- \$14,500 if the balance in the Unemployment Insurance Trust Fund is at least \$175 million but no greater than \$225 million as of the preceding September 30
- \$12,500 if the balance in the Unemployment Insurance Trust Fund is greater than \$225 million but less than \$275 million as of the preceding September 30
- \$10,500 if the balance in the Unemployment Insurance Trust Fund is \$275 million or greater as of the preceding September 30.

The Delaware Department of Labor will be permitted to borrow funds from the state's General Fund or other state fund sources to pay all or a portion of the principal of any loans extended by the federal government to the Unemployment Insurance Trust Fund. Any state funds that are loaned for this purpose will be reimbursed from unemployment insurance tax receipts.

Employers' liability to pay the special assessment levied at the rate of 0.15 percent on all taxable wages is deleted, and the special assessment will be levied at the following rate: 0.085 percent when the taxable wage base is \$18,500, 0.095 percent when the taxable wage base is \$16,500, 0.11 percent when the taxable wage base is \$14,500, 0.126 percent when the taxable wage base is \$12,500, and 0.15 percent when the taxable wage base is \$10,500. The special assessment levied just mentioned will not affect the computation of any other assessments due.

Monetary entitlement. For claims establishing a benefit year beginning January 1, 2014, and thereafter, the individual will serve a 1-week waiting period. "Waiting period" means the first week of an individual's benefit year for which no benefits are payable as a condition of eligibility because of the waiting week and for which the individual has timely applied and is otherwise eligible for regular benefits. (The waiting week provisions will be sunset effective for claims establishing a benefit year beginning January 1, 2017.)

Florida

Administration. Unless exempted, a claim for benefits may not be processed until the work registration requirement is satisfied.

A person receiving confidential information who violates the confidentiality provisions by revealing an employing unit's or individual's identity obtained under the administration of the unemployment compensation law commits a misdemeanor of the second degree and shall be punished by a definite term of imprisonment not exceeding 60 days or by paying a fine of \$500.

Appeals. Effective January 1, 2014, an appeals referee must be an attorney in good standing with the Florida Bar or must be successfully admitted to the Florida Bar within 8 months after his or her date of employment.

Financing. The additional rate for interest on federal advances will be assessed against contributing employers. An assessment may not be made if the amount of assessments on deposit from previous years, plus any earned interest, is at least 80 percent of the estimated amount of interest. Assessments on deposit must be available to pay the interest on Title XII advances. Four months after all Title XII advances and associated interest are repaid, any excess assessed funds in the Audit and Warrant Clearing Trust Fund, including associated interest, will be transferred to the state's Unemployment Compensation Trust Fund. Any assessment amounts subsequently collected will also be transferred to the state's Unemployment Compensation Trust Fund. (Previous law provided that in the calendar year that all Title XII advances and associated interest are repaid, if assessment funds are in excess of the amount required to meet the final interest payment, any such excess assessed fund will be credited to employer accounts in the state's Unemployment Compensation Trust Fund in an amount equal to the employer's contribution to the assessment for that year divided by the total amount of the assessment for that year, the result of which is multiplied by the amount of excess assessed funds.)

The following language expires July 1, 2014: If the state is permitted to defer interest payments due during a calendar year under 42 U.S.C. Section 1322, payment of the interest assessment is not due. If a deferral of interest expires or is subsequently disallowed by the federal government, prospectively or retroactively, the interest assessment will be immediately due and payable. Notwithstanding any other provision of this section, if interest due during a calendar year on federal advances is forgiven or

postponed under federal law and is no longer due during that calendar year, no interest assessment will be assessed against an employer for that calendar year, and any assessment already assessed and collected against an employer before the forgiveness or postponement of the interest for that calendar year will be credited to such employer's account in the state's Unemployment Compensation Trust Fund. However, such funds may be used only to pay benefits or refunds of erroneous contributions.

If a contributing employer, or its agent, fails to timely or adequately respond to the notice of claim or request for information, the employer's account may not be relieved of benefit charges.

The 15-percent penalty on the amount of overpayments because of fraud must be deposited into the state's Unemployment Compensation Trust Fund.

Nonmonetary eligibility. "Misconduct" is expanded to include willfully damaging an employer's property that results in more than \$50; stealing employer property or property of a customer or invitee of the employer; committing criminal assault or battery on another employee or on a customer or invitee of the employer; or committing abuse or neglect of a patient, resident, disabled person, elderly person, or child in an individual's professional care.

An unemployed individual is eligible to receive benefits for any week only if he or she has completed the Florida Department of Labor's online work registration (previously, eligible if registered with the department for work) and subsequently reports to the one-stop career center as directed by the regional workforce board for reemployment services. This requirement does not apply to persons who are unable to complete the online work registration because of an illiteracy, a physical or mental impairment, a legal prohibition from using a computer, or a language impediment. If a person is exempted from the online work registration, then the filing of his or her claim constitutes registration for work.

A claimant's proof of work search efforts may not include the same prospective employer at the same location in 3 consecutive weeks, unless the employer has indicated since the time of the initial contact that the employer is hiring. The work search requirements do not apply to persons required to participate in reemployment services.

An individual is disqualified for benefits for any week that his or her unemployment is due to a discharge from employment for failure without good cause to maintain a license, registration, or certification required by applicable law necessary for the employee to perform his or her assigned job duties. For this purpose, the term "good cause" includes failure of the employer to submit information required for a license, registration, or certification; short-term physical injury that prevents the employee from completing or taking a required test; and inability to take or complete a required test that is outside the employee's control.

Overpayments. In addition to a person having to repay benefits received fraudulently, the department will impose on the claimant a penalty equal to 15 percent of the amount overpaid.

Hawaii

Administration. "New hire" means an employee who has not previously been employed by the employer or who was previously employed by the employer but has been separated for at least 60 consecutive days.

Appeals. Written notice of a hearing of an appeal will be sent by first-class (nonregistered and noncertified) mail to the claimant's or party's last known address at least 12 days prior to the initial hearing date.

Upon application to, and approval by, the employment security appeals referee's office, a claimant or party to an appeal may elect to receive hearing notices, decisions, and other appeal documents from

the referee's office in electronic format in lieu of notice by mail. The date of electronic transmission is equivalent to the mailing date. Electronic notification status may be rescinded at any time by the referee's office, claimant, or any party upon written notification.

Financing. Any employer in default of contributions, advance payment, or reimbursement may be subject to offset of federal tax refund payment of the amount owed, including penalties, interest, costs, and administrative fees, effective April 1, 2013.

The withdrawal of moneys from the state's account in the Unemployment Trust Fund is permitted for payment of fees authorized under the Treasury Offset Program described in federal law.

If any employer fails to furnish claim information requested in the manner and timeframe specified, any redetermination issued on or after October 1, 2013, on the basis of information furnished untimely by the employer, or the employer's agent, will be effective on the date of the redetermination. The entire amount of benefits overpaid because of the employer's, or agent of the employer's, failure to respond timely or adequately to the request for claim information required will be charged against the account of the noncomplying employer.

The 15-percent penalty assessments collected will be deposited in the state Unemployment Compensation Fund.

The moneys in the employment and training fund may be used for funding

- business-specific training programs to create a more diversified job base and to carry out the purposes of the new industry training program with emphasis on serving small businesses by serving the training needs for industries included in the state's economic development strategy as recommended by the department of business, economic development, and tourism and serving the training needs identified by the county workforce investment boards, employer organizations, industry or trade associations, labor organizations and similar organizations; and
- industry or employer-specific training programs in which critical skill shortages exist in high growth occupational or industry areas with emphasis on serving small businesses by serving the training needs for industries included in the state's economic development strategy as recommended by the department of business, economic development, and tourism; and serving the training needs identified by the county workforce investment boards, employer organizations, industry or trade associations, labor organizations, and similar organizations.

The Unemployment Compensation Fund is renamed the "Unemployment Compensation Trust Fund," the Special Fund for Disability Benefits is renamed the "Trust Fund for Disability Benefits," and the Special Premium Supplemental Fund is renamed the "Premium Supplemental Trust Fund."

Contributing employers assigned a minimum rate of zero percent or the maximum rate of the applicable schedule (previously, or the maximum rate of 5.4 percent) are exempt from being subject to an employment and training fund assessment at a rate of 0.01 percent of taxable wages.

No person will use the terms "professional employer organization" or "PEO" or other similar name unless the person is registered and in compliance with the law and the rules adopted.

During the term of the agreement between a professional employer organization and its client company, the professional employer organization will be deemed the employer for all covered employees for purposes of complying with all laws relating to unemployment insurance, workers' compensation, temporary disability insurance, and prepaid healthcare coverage; and the professional employer organization will provide written notification to each covered employee of this responsibility.

The moneys in the employment and training fund may be used for the period from July 1, 2013, to June 30, 2014, for funding costs to administer, manage, report, and oversee Title I programs under the Federal Workforce Investment Act of 1998, as amended.

Overpayments. Determinations or redeterminations dated on or after October 1, 2013, that an individual has been overpaid benefits under any state or federal unemployment compensation program and is disqualified because of fraud on the basis of a false statement or representation will include a penalty assessment amount equal to 15 percent of the overpaid amount.

The liable individual must repay the overpaid amount and the penalty assessment amount or have the overpaid amount only deducted from any future benefits payable. The penalty assessment amount will not be subject to recovery by deduction from future benefits payable.

The overpaid benefits amount and the 15-percent penalty assessment amount, costs, and administrative fees are allowed to be deducted from federal income tax refunds, effective April 1, 2013.

Idaho

Coverage. The definition of “employment” exempts service performed as an election official or election worker including, but not limited to, a poll worker, an election judge, an election clerk, or any other member of an election board, if the amount of remuneration that the individual received during the calendar year for services as an election official or election worker is less than \$1,000.

Illinois

Administration. The director of the Department of Employment Security is permitted, by regulation, to provide that amounts due from an employing unit for contributions, payments in lieu of contributions, penalties, or interest be paid by an electronic funds transfer, including amounts paid on behalf of an employing unit by an entity representing the employing unit. Except as otherwise provided, the regulation will not apply to an employing unit that notifies the director that it declines to pay by electronic funds transfer. The director is authorized to provide, by regulation, reasonable penalties for employing units that are subject to and fail to comply with such a regulation. Any employing unit that is not subject to the regulation may elect to become subject to the regulation by paying amounts due for contributions, payments in lieu of contributions, penalties, or interest by an electronic funds transfer. Notwithstanding any other provision to the contrary, in the case of an entity representing five or more employing units, neither the entity nor the employing units (for as long as they are represented by that entity) will have the option to decline to pay by electronic funds transfer.

Any provision requiring service by certified or registered mail, either a paper return receipt issued by the U.S. Postal Service or an electronic return receipt issued by the U.S. Postal Service, will constitute proof of service.

Iowa

Financing. The Iowa Workforce Development Department is prohibited from relieving the experience rating account of both contributory and reimbursable employers for benefits overpaid to individuals because of the employer’s, or an agent of the employer’s, failure to respond timely or adequately to the request for information relating to the payment of benefits, applicable to any overpayment determination issued on or after July 1, 2013.

The funds received for overpayment penalties must be deposited into the state Unemployment Trust Fund, applicable to any fraudulent overpayment issued on or after July 1, 2013.

Overpayments. The department must assess on individuals a penalty equal to 15 percent of the amount of a fraudulent overpayment that will be collected in the same manner as the overpayment but may not be deducted from any future benefits payable to the individual, applicable to any fraudulent overpayment issued on or after July 1, 2013.

Kentucky

Financing. Sums collected from the 15-percent penalty assessed because of fraud must be paid into the state's Unemployment Trust Fund.

Notwithstanding any other provisions of law, no contributing employer's reserve account will be relieved of any charges for benefits relating to an improper benefit payment to a worker established after October 21, 2013, if (1) the improper benefit payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request for information relating to a claim for benefits and if (2) the employer, or an agent of the employer, has a pattern of failing to respond timely or adequately to requests. A "pattern of failing" means at least six failures occur in a calendar year or the failure to respond to 2 percent of such requests in a calendar year, whichever is greater.

Overpayments. Any person who has received any sum as benefits under this state's or any other state's unemployment insurance statutes or any U.S. Department of Labor unemployment insurance benefit program, providing a reciprocal agreement has been signed with such other state or the U.S. Department of Labor, while any condition for the receipt of such benefits was not fulfilled in the person's case or while the person was disqualified from receiving benefits or if the person has received benefits in weeks for which the person later receives a backpay award, will either have such sum deducted from any future benefits payable to the person or repay the Office of Employment and Training, Department of Workforce Investment, for the fund, a sum equal to the amount so received by the person. If, after due notice, the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected by civil action, and any sums so collected will be credited to the pooled account or the appropriate reimbursing employer account. The appropriate reimbursing employer account will not receive credit for sums collected under this paragraph or other specific provisions of the unemployment compensation law if an improper benefit payment established after October 21, 2013, was determined to be due to the reimbursing employer, or an agent of the employer, failing to respond timely or adequately to the request for information relating to a claim for benefits, and to the reimbursing employer, or an agent of the employer, having a pattern of failing to respond timely or adequately to requests for information relating to a claim for benefits. The sums collected will be credited to the pooled account. If any benefit was paid because of office error as defined by administrative regulation, an improperly paid benefit will not be recouped or recovered, except by deduction from any future benefits payable the person. For purposes of this paragraph, overpayments because of a reversal of entitlement to benefits in the appeal or review process will not be construed to be the result of office error.

A recipient of benefits paid because of false statement, misrepresentation, or concealment of material information by the recipient will be assessed a 15-percent penalty of the amount of improperly paid benefits. The penalty will be collected in the same manner as improperly paid benefits.

Louisiana

Administration. An employer, his or her duly authorized representative, or the claimant is permitted to waive the right to receive written notices or determinations by certified mail. The waiver will be in writing and will be mailed or transmitted electronically to the Office of Unemployment Insurance Administration within the Louisiana Workforce Commission. If the right to receive written notices and determinations by certified mail has been waived, written notices or determinations may be transmitted by first-class mail or by electronic delivery. A notice or determination is deemed delivered when it has been mailed or electronically transmitted.

Appeals. The appeal referee is required to mail a “notice to appear for a hearing” to all parties to the appeal at least 7 days (previously, 10 days) prior to the date of hearing, and copies of the statements by the claimant and employer that were used in the appealed determination will be sent with such notice if requested.

A party to an appeal may expressly waive the 7-day advance notice requirement by written waiver executed after the appeal has been filed. A copy of the written waiver will be included in the record. Nothing will be construed to dispense with the requirement that a “notice to appear for hearing” be mailed.

Overpayments. The executive director of the Louisiana Workforce Commission is permitted to enter into reciprocal arrangements concerning recovery of overpaid benefits with appropriate and duly authorized agencies of other states, the United States, or both.

“Overpayment” means an improper payment of benefits from a state or federal Unemployment Compensation Fund that has been determined recoverable under the requesting state’s law.

Provisions are established for the requirements of the requesting state, the recovering state, and the paying state regarding the recovery of state or federal benefit overpayments.

Maine

Administration. An employer doing business in Maine will report the hiring of a newly hired employee. “Newly hired employee” means a person who resides or works in this state to whom the employer anticipates paying earnings, was previously employed by the employer but who has been separated from that prior employment for at least 60 consecutive days, or has not previously been employed by the employer. (Deletes from the definition of “newly hired employee” the rehiring or return to work of an employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.) An employer will submit a report within 7 days of the date that services for remuneration are first performed by a newly hired employee (previously within 7 days of the hiring, rehiring, or return to work of the employee.) The report must also contain the most recent date that services for remuneration were first performed by the employee.

Financing. No charge may be made to an individual employer but must be made to the General Fund if the claimant was hired by the claimant’s last employer to fill a position left open by an individual given a leave of absence for family medical leave provided under Maine or federal law and if the claimant’s separation from this employer was because the employer restored the individual to the position at the completion of the leave.

An amount equal to 15 percent of each overpayment on which the 50-percent, 75-percent, and 100-percent penalties were assessed because of misrepresentation or fraud must be transferred directly into the state’s Unemployment Compensation Trust Fund account upon recovery.

An employer’s experience rating record may not be relieved of charges relating to an erroneous payment from the fund if (1) the erroneous payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to a written or electronic request for information relating to the claim for unemployment compensation and if (2) the employer, or an agent of the employer, has established a pattern of failing to respond timely or adequately to written or electronic requests for information relating to claims for unemployment compensation, applicable to determinations of erroneous payments made after October 21, 2013.

Overpayments. An individual will be disqualified for benefits for any week he or she knowingly made a false statement or representation or knowingly failed to disclose a material fact in the claimant’s

application to obtain benefits from any state or federal unemployment compensation program administered by the Bureau of Unemployment Compensation.

Maryland

Financing. The removal of a benefit charge related to a claim for benefits is prohibited if the employing unit, or the employing unit's agent, fails to respond timely or adequately to a request for information and the employing unit, or agent, has not shown good cause for failing to provide timely or adequate information. The employing unit, or the employing unit's agent, must provide written notification of good cause and bears the burden of proof to establish good cause.

Benefit charges may be removed from the account of a not-for-profit organization or governmental entity for benefits recovered. Benefit charges will not be removed if benefits were paid because the not-for-profit organization or governmental entity failed to provide timely or adequate information in response to a request for information related to the claim for benefits or if the not-for-profit organization or governmental entity has not demonstrated good cause for failing to provide timely and adequate information. The not-for-profit organization or governmental entity must raise the issue of good cause in writing and has the burden of proving good cause.

The 15-percent penalty on fraudulent benefits must be deposited into the state's Unemployment Trust Fund.

Overpayments. Benefits that were obtained fraudulently will be recovered from a claimant, and a monetary penalty of 15 percent and interest of 1.5 percent per month of all benefits paid to the claimant will be assessed and recovered for each week for which he or she made a false statement or representation or failed to disclose a material fact. The recoveries of the monetary penalty and interest are excluded from deductions from future benefits payable to the claimant, applicable to benefit determinations establishing overpayments issued on or after October 1, 2013.

Massachusetts

Financing. For calendar year 2013 contribution rate, employers with a negative balance are assigned Schedule E tax rates that range from 7.24 percent to 12.27 percent and employers with a positive balance range from 1.26 percent to 6.14 percent.

Minnesota

Extensions and special programs. An individual who stopped working because of a lockout, with the exception of professional athletes, is eligible for a maximum of 26 weeks in the additional benefits program if the individual meets the eligibility requirements and has exhausted regular unemployment benefits, and is not eligible for extended benefits or other unemployment benefits under any federal law and the lockout is in active progress.

The Converting Layoffs into Minnesota Businesses entrepreneurial program is created. The program is considered reemployment assistance training, and individuals participating in the program are eligible for unemployment benefits. The deductible earnings provisions and the 32-hour work limitation for participants may be waived for up to 500 participants at any given time.

Financing. Employers with no taxable wages during the experience rating period (48 calendar months ending June 30) must be assigned a new employer rate (previously if no wages for each of 5 calendar quarters or 14 consecutive quarterly reports).

The employer base tax rate for calendar year 2014 will be 0.1 percent with no additional assessment if the Minnesota Unemployment Trust Fund on September 30, 2013, is more than \$8 billion. The same

base tax rate will apply for calendar year 2015 if the amount is more than \$9 billion on September 30, 2014. This provision expires December 31, 2015.

Mississippi

Financing. Responsibility for administering the Unemployment Trust Fund and the Unemployment Compensation Fund is transferred from the state treasurer to the Department of Employment Security. The department will be subject to the applicable laws pertaining to security of public fund deposits.

The executive director of the Department of Employment Security is allowed to grant a reasonable extension of time beyond the statutory due date within which to file any required unemployment reports. The executive director may, in his discretion, recognize extensions of time authorized and granted by the Internal Revenue Service for the filing of tax returns.

Notwithstanding the newly subject employer contribution rate, if House Bill (HB) 932 becomes effective before March 8, 2013, the contribution rate of all newly subject employers will be reduced by 0.07 percent for calendar year 2013 only. If this bill becomes effective from and after March 8, 2013, the contribution rate of all newly subject employers will be reduced by 0.07 percent for calendar year 2014 only. This general experience rate decrease provided for in this paragraph will be effective for only 1 calendar year. For purposes of this paragraph, “newly subject employers” means employers whose unemployment insurance experience rating record has been chargeable throughout at least the 12 consecutive calendar months ending on the most recent computation date at the time the contribution rate for a year is determined. HB 932 became effective March 6, 2013.

With subparagraph 2 added, the following procedures will apply for tax years subsequent to December 31, 2009:

1. Except as otherwise provided in subparagraph 2, workforce enhancement training contributions will be collected at a rate, based taxable wages, of 0.3 percent through December 31, 2010, and at a rate of 0.15 percent thereafter.

2. If HB 932 becomes effective before March 8, 2013, the contribution rate to the Workforce Enhancement Training Fund for calendar year 2013 will only be 0.22 percent. If HB 932 becomes effective from and after March 8, 2013, the contribution rate to the Workforce Enhancement Training Fund for calendar year 2014 will be 0.22 percent. The contribution rate to the Workforce Enhancement Training Fund provided in this subparagraph will be effective for only 1 calendar year.

Notwithstanding any other provision, an employer will not be relieved of charges when the department finds that the employer, or the employer’s agent of record, was at fault for failing to respond timely or adequately to the request of the department for information relating to an unemployment claim that was subsequently determined to be improperly paid, unless the employer, or the employer’s agent of record, shows good cause for having failed to respond timely or adequately to the request of the department for information. “Good cause” means an event that prevents the employer, or employer’s agent of record, from timely responding and includes a natural disaster, emergency or similar event, or an illness on the part of the employer, the employer’s agent of record, or their staff charged with responding to such inquiries when no other individual has the knowledge or ability to respond. Any agency error that resulted in a delay or in the failure to deliver notice to the employer, or the employer’s agent of record, will also be considered good cause.

Except as otherwise provided in the next paragraph, the general experience rate will be adjusted by use of the size of fund index factor. This factor may be positive or negative.

Notwithstanding the minimum rate provisions, if HB 932 becomes effective before March 8, 2013, the general experience rate of all employers will be reduced by 0.07 percent for calendar year 2013

only. If HB 932 becomes effective on or after March 8, 2013, the general experience rate of all employers will be reduced by 0.07 percent for calendar year 2014 only. The general experience rate decrease provided for in this paragraph will be effective for only 1 calendar year.

The definition of “debtor” includes any corporation or partnership, and the definition of “refund” includes income tax refund due to any corporation or partnership collected under the “collection through setoff against tax refunds provision.”

The department, in its discretion, will have the authority to noncharge an employer account for any benefits paid for unemployment due directly to a presidentially declared major disaster but only in those counties and/or areas identified as the disaster area for individual assistance.

Monetary entitlement. The terms “benefits” and “unemployment benefits” are replaced with the term “reemployment assistance,” which means money payments payable to individuals, with respect to their unemployment through no fault of their own.

The 1-week waiting period will be waived if the President of the United States declares a major disaster regarding individual assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Nonmonetary eligibility. The eligibility conditions to receive benefits include that an unemployed individual be actively seeking work.

Overpayments. Under both the “penalty provision” and the “collection by warrant provision” all warrants issued by the department for the collection of any unemployment tax or for an overpayment of benefits imposed by statute and collected by the department will be used to levy on salaries, compensation, or other moneys due the delinquent employer or claimant. No such warrant will be issued until after the delinquent employer or claimant has exhausted all appeal rights associated with the debt. The warrants will be served by mail or by delivery by an agent of the department on the person or entity responsible or liable for the payment of the monies due the delinquent employer or claimant. Once served, the employer or other person owing compensation to the delinquent employer or claimant will pay the moneys over to the department in complete or partial satisfaction of the liability. An answer will be made within 30 days after service of the warrant in the form and manner determined satisfactory by the department. Failure to pay the money over to the department as required will result in the served party being personally liable for the full amount of the monies owed, and the levy and collection process may be issued against the party in the same manner as for other debts owed to the department. Except as otherwise provided, the answer, the amount payable under the warrant, and the obligation of the payor to continue payment will be governed by the garnishment laws of this state but will be payable to the department.

Montana

Financing. An employer with an experience rating account may not be charged for benefits paid to a claimant laid off as a direct result of a presidentially declared major natural disaster if the recipient of the benefits would have been eligible for federal disaster unemployment assistance with respect to that unemployment except for receipt of state unemployment insurance benefits. This requirement applies retroactively to any claims filed on or after January 1, 2011.

An employing unit or its representative will be considered to have waived its rights, and the Montana Department of Labor and Industry will consider the employing unit to be no longer eligible as an interested party with respect to the claim and deny credit to the employing unit for any erroneous payment to the claimant for (1) untimely filing wage, employment, separation, and eligibility information requested by the department without good cause and (2) failing to provide complete

answers in response to the department's request for information. An employing unit that elects to make payments in lieu of contributions is also subject to this provision.

Of the money collected from the penalties assessed on fraudulent benefits, 70 percent must be deposited in the unemployment compensation administration account and the remaining 30 percent (15 percent of the collected penalties) must be deposited in the state's unemployment insurance fund. (Previously, the law required that all money accruing from the penalty be deposited in the federal special revenue account.)

The account of an employer with an experience rating may not be charged for benefits paid if (1) paid to a worker who terminated services voluntarily with a covered employer without good cause or (2) paid to a worker who the employer terminated for misconduct or gross misconduct. The Montana Department of Labor and Industry will determine if a claimant left work with good cause attributable to employment when the claimant

1. had compelling reasons arising from the work environment that caused the claimant to leave and the claimant (a) attempted to correct the problem in the work environment and (b) informed the employer of the problem and gave the employer reasonable opportunity to correct the problem
2. left work that the department determines to be unsuitable
3. left work within 30 days of returning to state-approved training.

The term "compelling reasons" includes, but is not limited to,

- undue risk of injury, illness, or physical impairment or reasonably foreseeable risk to the claimant's morals;
- unreasonable actions by the employer concerning hours, wages, terms of employment, or working conditions;
- a condition underlying a workers' compensation or occupational disease claim for which liability has been accepted by an insurer of workers' compensation. If the condition is one for which liability has not been accepted by the workers' compensation insurer, the department will independently evaluate the condition to determine whether the condition appears to result from the claimant's employment. If the department is satisfied that the condition appears to be related to work, the department will consider the condition to provide a compelling reason for leaving work; and
- unreasonable rules or discipline by the employer so severe as to constitute harassment.

Nonmonetary eligibility. "Rehire" means the first day, following a termination of employment, that an employee begins to again perform work or provide services for a payor. Termination of employment does not include temporary separations of less than 60 days from employment, such as unpaid medical leave, an unpaid leave of absence, or a temporary or seasonal layoff.

Under the misconduct provisions, willful or wanton disregard of the rights, title, and interests of a fellow employee or the employer is expanded to include

1. insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions, processes, or instructions of the employer;
2. repeated inexcusable tardiness following warnings by the employer;
3. dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;
4. false statements made as part of a job application process, including but not limited to deliberate falsification of the individual's criminal history, work record, or educational or licensure achievements;
5. repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

6. deliberate acts that are illegal, provoke violence or violation of the law, or violate a collective bargaining agreement by which the employee is covered. (However, an employee who engages in lawful union activity may not be disqualified because of misconduct under this definition.);

7. violations of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

8. actions by the claimant who, while acting within the scope of employment, commits violations of law that significantly affect the claimant's job performance or that significantly harm the employer's ability to do business.

Misconduct includes deliberate violations or disregard of established employer standards or of standards of behavior that the employer has the right to expect of an employee. (Previously, misconduct included deliberate violations or disregard of standards of behavior that the employer has the right to expect of an employee.)

Overpayments. The repayment provision relating to when a person knowingly makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under this state's law or under an employment security law of any other state or territory or the federal government, either for the individual or for any other person, is modified by requiring the individual to repay a sum equal to the amount wrongfully received by the individual, plus a department-assessed penalty equal to 50 percent of the fraudulently obtained benefits. The department-assessed penalty incorporates the 15-percent fraudulent penalty required by federal law. (Previously, the law provided that the department may assess a penalty not to exceed 100 percent.)

Benefits may not be used to offset the penalty due. (Previously, the law provided that future benefits may not be used to offset the penalty due.)

Nevada

Administration. The provision creating the Unemployment Compensation Service and the state employment services as subdivisions within the Employment Security Division is repealed, and obsolete references to these subdivisions are deleted. (State employment services is now at Nevada Revised Statutes 612.330.)

As soon as practicable, but not more than 3 business days after receiving notice from the Department of Employment, Training and Rehabilitation that a judgment has been obtained against a contractor for failure to pay contributions to the Unemployment Compensation Fund, the state Contractors' Board will notify the contractor by mail that the board will suspend the license of the contractor if the contractor does not furnish proof, within 30 days after the date of the notice, that the contractor has satisfied the judgment. Failure to timely furnish proof of satisfying the judgment will (1) summarily suspend the license of the contractor without further notice and (2) require the contractor to submit to the board a list of all projects for which the contractor has unfulfilled contractual obligations in which the contract was entered into on or before the date of the notice sent by the board. The suspension will continue until the contractor furnishes proof that the contractor has satisfied the judgment. During the term of the suspension, the contractor will not submit any bids for any new work or begin work on any project not described in the list submitted to the board.

The board will notify (1) the Office of the Labor Commissioner, which will add the name of the contractor to the list of contractors who are disqualified to bid on public works, and (2) the state Public Works Board, which will add the name of the contractor to the list of contractors who are not prequalified to bid on public works. The name of a contractor will be removed from the lists when notified by the state Contractors' Board that the suspension has been lifted.

The administrator of the Employment Security Division will notify the board of any licensed contractor against whom a judgment is obtained for failure to pay contributions to the Unemployment Compensation Fund.

Except as otherwise provided, information obtained from any employing unit or person in administering provisions concerning licensed contractors' judgments and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner that would reveal the person's or employing unit's identity.

Financing. The administrator of the Employment Security Division is required to establish an assessment, calculated by dividing the interest accruing and payable on Title XII advances received by 95 percent of the total taxable wages paid by all employers in the state during the immediately preceding calendar year. Except as otherwise provided, each employer will pay a proportionate share of the assessment established that will be calculated by multiplying the employer's total taxable wages paid during the immediately preceding calendar year by the amount of the assessment. The assessment must only be used for the payment of interest accruing and payable on Title XII advances received.

Each employer will be notified of his or her proportionate share of the assessment on or before June 30 of each year, and interest may be collected on any such amount that remains unpaid on July 31 of each year. Procedures necessary to collect payments will be established. Any money collected from an employer must be deposited into the newly created Interest Repayment Fund, which is a special revenue fund. An employer's proportionate share of the assessment must not be charged against the experience rating record of the employer. The provisions of law applicable to the collection of unemployment contributions also apply to the collection of payments. Any nonprofit organization, political subdivision, or Indian tribe that makes reimbursements in lieu of contributions is exempt from paying this assessment. These provisions are operative only so long as the Interest Repayment Fund continues to exist, and the administrator continues to accept and deposit payments received from employers into such fund. If the administrator determines that the assessment is no longer necessary, the administrator will notify all employers paying a proportionate share of the assessment and will not accept any further payments. If and when the Interest Repayment Fund ceases to exist, any money remaining in the Interest Repayment Fund, after the payment of all interest accruing and payable on Title XII advances are received and a determination by the administrator that no further payments are anticipated, must be deposited into the Unemployment Compensation Fund.

In any proceedings brought under any provisions relating to civil actions to collect contributions, interest, and forfeits via attachment of property, entry of judgment, liens, and appeals to the Supreme Court, the administrator of the Employment Security Division will charge to the employer against whom the proceeding is brought an additional fee to defray the cost for recording, copying, or certifying documents. Any such fee must be charged to the employer in accordance with specific fees charged by county recorders and must be paid into the Unemployment Compensation Administration Fund.

At the request of the administrator of the Employment Security Division, the state Board of Finance may issue bonds to fund the repayment of federal advances and interest thereon, make deposits to or to establish adequate balances in the state's account in the Unemployment Trust Fund to pay the costs of issuing bonds, pay bond administrative expenses, fund capitalized interest, fund bond reserves, refund or redeem prior bonds, or otherwise maintain funds sufficient to pay unemployment benefits when due. The bonds are special obligation bonds payable primarily from the special bond contributions that employers are required to pay.

For each calendar year in which bond obligations and bond administrative expenses will be due, the state treasurer will notify the administrator of the amount of bond obligations, the estimated amount of bond administrative expenses, and certain other amounts in sufficient time to determine the amount of special bond contributions required for that year, for deposit into the Unemployment Compensation Bond Fund. The state treasurer's calculation of the amounts that will be due is subject to verification by the administrator.

To the extent legally available under federal law, that part of the principal due on bonds that is attributable to payment of benefits or the repayment of the principal of Title XII federal advances, exclusive of any interest or bond administrative expenses associated with the bonds, is also payable from money in the Unemployment Compensation Fund, including the Benefit Account, and money credited to the account of the state in the Unemployment Trust Fund.

If the Unemployment Compensation Bond Fund is deficient, that part of the principal due on bonds that is attributable to payment of benefits or the repayment of the principal of Title XII federal advances, exclusive of any interest or bond administrative expenses associated with the bonds, may be paid from this state's account in the Unemployment Trust Fund of the U.S. Department of the Treasury.

A special dedicated trust fund, separate and apart from all other public money or funds of the state, a fund in the state treasury to be known as the Unemployment Compensation Bond Fund is established. All special bond contributions and any other amounts provided for in any contract, instrument, or other agreement entered into must be paid into the Unemployment Compensation Bond Fund, provided that all or a portion of the special bond contributions may be paid into the state's account in the Unemployment Trust Fund of the U.S. Department of the Treasury as may be provided in any contract, instrument, or other agreement entered into. Expenditures of money in the Unemployment Compensation Bond Fund are not subject to specific appropriations. The money in the Unemployment Compensation Bond Fund must be used for any or all of the following:

1. Payment of bond obligations and bond administrative expenses
2. Replenishment of bond reserves
3. Funding or replenishment of additional reserves in an amount required under any instrument or agreement related to the bonds to maintain a debt service coverage ratio at least at the level required by the trust indenture and instruments in connection with the bonds or that may be necessary to maintain any ratings on the bonds at a level determined by the state treasurer, in his or her sole discretion
4. Optional redemption, mandatory redemption, purchase, refunding, or defeasance of outstanding bonds

Money in the Unemployment Compensation Bond Fund may also be used to transfer to the Benefit Account for payment of benefits.

Notwithstanding any other provisions, all contributing employers are required to pay the special bond contributions. The payment of these bond contributions do not apply to any nonprofit organization, political subdivision, or Indian tribe that makes reimbursements in lieu of contributions. The administrator will establish an assessment payable by each employer for the special bond contributions at such rate or rates as the administrator may prescribe.

The amount of the special bond contributions must be calculated and assessed annually or more frequently as the amount necessary for the purposes described in 1 through 4 in the previous list.

Whenever the cash balance and current estimated receipts of the Unemployment Compensation Bond Fund will be insufficient to meet the covenants and conditions of the trust indenture and other instruments in connection with the bonds, the administrator will assess supplemental special bond contributions sufficient to increase the balance of the Unemployment Compensation Bond Fund to the

amount required to meet such covenants and conditions. Special bond contributions are due and payable by each employer in accordance with such regulations as the administrator may prescribe.

During any period that no bonds are outstanding, charging additional special bond contributions will cease and all employers paying special bond contributions will be notified that contributions are no longer being assessed. The collection of any special bond contributions previously assessed and not paid may continue. Any money remaining in the Unemployment Compensation Bond Fund when no bonds remain outstanding must be deposited into this state's account in the Unemployment Trust Fund of the U.S. Department of the Treasury.

The definition of "Fund" is amended to mean the Unemployment Compensation Fund to which all contributions, other than special bond contributions, or payments in lieu of contributions, are required to be deposited and from which all benefits will be paid and from which the principal due on a bond that is attributable to the payment of benefits under Title XII of the Social Security Act, as amended, or that is attributable to the repayment of the principal of a federal advance, in each case, exclusive of interest on the bond or bond administrative expenses, may be paid.

The definition of "benefits" is expanded to include the principal due on a bond that is attributable to the payment of benefits under Title XII of the Social Security Act, as amended, or that is attributable to the repayment of the principal of a federal advance, in each case, exclusive of interest on the bond or bond administrative expenses.

New Hampshire

Extensions and special programs. Effective July 1, 2013, a "self-employment assistance program" is established under which an individual who meets the specific requirements is eligible to receive an allowance in lieu of regular benefits for assisting that individual in establishing a business and becoming self-employed. Individuals must be eligible to receive regular unemployment compensation under state law to enter the self-employment assistance program. Regular benefits and the allowances may not be paid with respect to the same week.

Eligibility requirements for the self-employment assistance program are as follows:

1. An individual must be identified by a state worker profiling system as likely to exhaust regular benefits.
2. An individual must be participating in self-employment assistance activities approved by the state agency. The state must offer entrepreneurial training, business counseling, and technical assistance.
3. An individual must be actively engaged full time in activities that may include training related to establishing a business and becoming self-employed.
4. Unemployment assistance allowances will be payable to participants in the self-employment assistance program at the same interval, on the same terms, and subject to the same conditions as regular benefits except that
 - the requirements relating to availability for work, active search for work, and refusal to accept work will not be applicable to the participant;
 - the requirements relating to disqualifying income will not be applicable to income earned from self-employment by the participant;
 - a participant who meets the requirements will be considered unemployed; and
 - individuals who fail to participate in self-employment assistance activities or who fail to actively engage full time in activities, including training related to establishing a business and becoming self-employed, will be denied benefits for the week the failure occurs.

5. The aggregate number of individuals participating in the self-employment assistance program at any time may not exceed 2.5 percent of the number of individuals receiving regular benefits at that time.

6. The weekly amount of a self-employment assistance allowance payable to an individual will be equal to the weekly benefit amount for regular benefits otherwise payable.

7. The sum of the self-employment assistance allowance paid and regular benefits paid may not exceed the maximum amount of benefits established with respect to any benefit year.

Financing. Self-employment assistance allowances will be charged to the state Unemployment Trust Fund.

New Jersey

Financing. For 1 year from June 30, 2013, to June 30, 2014, the following provision is suspended: For experience rating years beginning on or after July 1, 2011, and before July 1, 2013, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.0 percent, the contribution rate for each employer liable to pay contributions will be increased by a factor of 10.0 percent computed to the nearest multiple of 0.1 percent if not already a multiple.

With respect to experience rating years beginning on or after July 1, 2014, the foregoing provision becomes effective.

New Mexico

Financing. The additional 25-percent civil penalty because of fraud will be collected in the manner that contributions and interest are collected from employers.

The civil penalty because of fraud must be distributed as follows: 15 percent of the amount of overpaid benefits deposited into the state Unemployment Compensation Fund and 10 percent of the amount of overpaid benefits deposited into the state employment security department fund.

Civil actions to collect contributions or interest thereon from an employer must be heard by the court to the same extent as civil actions and appeals of civil actions brought to collect unpaid or underpaid wages, interest, and any other amounts due.

Effective January 1, 2014, Contribution Schedule 2 will be used for assigning each employer's contribution rate from January 1, 2014, through December 31, 2014. Schedule 2 rates range from 0.1 percent to 5.4 percent.

Effective January 1, 2014, one of the following Contribution Schedules 0 to 6 will be used for each calendar year after 2014, except as otherwise provided, to assign each employer's contribution rate:

- Contribution Schedule 0 if the fund equals at least 2.3 percent of the total payrolls (most favorable schedule with rates ranging from 0.03 percent to 5.40 percent)
- Contribution Schedule 1 if the fund equals less than 2.3 percent but not less than 1.7 percent of the total payrolls; rates range from 0.05 percent to 5.40 percent
- Contribution Schedule 2 if the fund equals less than 1.7 percent but not less than 1.3 percent of the total payrolls; rates range from 0.1 percent to 5.4 percent
- Contribution Schedule 3 if the fund equals less than 1.3 percent but not less than 1.0 percent of the total payrolls; rates range from 0.6 percent to 5.4 percent
- Contribution Schedule 4 if the fund equals less than 1.0 percent but not less than 0.7 percent of the total payrolls; rates range from 0.9 percent to 5.4 percent
- Contribution Schedule 5 if the fund equals less than 0.7 percent but not less than 0.3 percent of the total payrolls; rates range from 1.2 percent to 5.4 percent

- Contribution Schedule 6 if the fund equals less than 0.3 percent of the total payrolls (least favorable schedule with rates ranging from 2.7 percent to 5.4 percent)

Effective January 1, 2015, the formula used for contribution rate determinations changes from a reserve-ratio formula to a benefit-ratio formula. The provisions relating to the reserve-ratio formula including all past years of benefits and contributions used, the average 3 years of payrolls used, voluntary contributions, Contribution Schedules 0 to 6, separate contributing employer accounts and credits, and the 5.4-percent standard contribution rate payable by each employer are repealed. Under the benefit-ratio formula, the law provides that for each calendar year if, as of the computation date (June 30), an employer has been a contributing employer throughout the preceding 24 months, the contribution rate will be determined by multiplying the employer's benefit ratio by the reserve factor, but will not be less than 0.33 percent or more than 5.40 percent. The benefit ratio is determined by dividing the employer's benefit charges during the immediately preceding fiscal years, up to a maximum of 3 fiscal years, by the total of the annual payrolls of the same period, calculated to four decimal places, disregarding any remaining fraction. If an employer (new employer) has been a contributing employer for less than 24 months, the contribution rate will be the average of the contribution rates for all contributing employers in the employer's industry, as determined, but will not be less than 1.0 percent or more than 5.4 percent.

Because New Mexico is a benefit-ratio state, the fund must sustain an adequate reserve, which means that the monies in the fund available for benefits equal the total amount of funds needed to pay between 18 and 24 months of benefits at the average of the 5 highest years of benefits paid in the last 25 years. To sustain an adequate reserve, the Employment Security Division will determine a reserve factor to be used when calculating an employer's contribution rate by rule promulgated by the Secretary, Department of Workforce Solutions. The rule will set forth a formula that will set the reserve factor in proportion to the difference between the amount of funds available for benefits in the fund as of the computation date and the adequate reserve, within the following guidelines:

- 1.0000 if, as of the computation date, an adequate reserve exists
- Between 0.5000 and 0.9999 if, as of the computation date, greater than an adequate reserve exists
- Between 1.0001 and 4.0000 if, as of the computation date, less than an adequate reserve exists

Under the benefit-ratio formula, if an employer's contribution rate is calculated to be greater than 5.4 percent, notwithstanding the limitation provided in the law, the employer will be charged an excess claims premium in addition to the contribution rate applicable to the employer, provided that an employer's excess claims premium will not exceed 1.0 percent of the employer's annual payroll. Multiply the employer's excess claims rate by the employer's annual payroll to determine the excess claims premium. An employer's excess claims rate will be determined by multiplying the difference of the employer's contribution rate, notwithstanding the limitation in the law, less 5.4 percent by 10.0 percent.

Effective January 1, 2013, a contributing base-period employer will not be charged for benefits paid for dependent's allowance or voluntarily leaving work to relocate because of a spouse, who is in the military service of the U.S. or New Mexico National Guard, receiving permanent change of station orders, activation orders, or unit deployment orders.

Effective January 1, 2013, in the case of a transfer of an employing enterprise, notwithstanding any other provision of law, the experience history of the transferred enterprise will be transferred from the predecessor employer to the successor as follows:

- If, at the time of a transfer of an employing enterprise in whole or in part, both the predecessor and the successor are under common ownership, then the experience history attributable to the transferred business will also be transferred to and combined with the experience history attributable to the successor employer. The rates of both employers will be recalculated and made effective immediately on the date of the transfer.

- Whenever a person not currently an employer acquires the trade or business of an employing enterprise, the experience history will not be transferred to the successor if the successor acquired the business solely or primarily to obtain a lower rate of contributions; instead, an applicable new rate will be assigned.

- If, following a transfer of experience history, it is determined that a substantial purpose of the transfer of the employing enterprise was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved will be combined into a single account and a single rate assigned to the combined account.

- A person who knowingly violates or attempts to violate these rules to obtain a reduced liability for contributions is guilty of a misdemeanor and will be punished by a fine of not less than \$1,500, or more than \$3,000 or, if an individual, by imprisonment for a definite term not to exceed 90 days, or both. In addition, an employer will be subject to a civil penalty of the highest contribution rate as determined, and for a person not an employer, the civil penalty will not exceed \$3,000.

Overpayments. In addition to the fine and imprisonment penalties imposed because of fraud, a person who knowingly makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment, either for that person or for any other person, must pay a civil penalty of 25 percent of the amount of overpaid benefits.

North Carolina

Financing. Money from the special Employment Security Administration Fund is appropriated to the Unemployment Insurance Fund for \$10 million for the 2013–2014 fiscal year to be used to make principal payments on Title XII federal advances made to pay unemployment compensation benefits.

North Dakota

Financing. To preserve the automatic lien against an employer for contributions, interest, or penalty, and costs that accrue against subsequent mortgages, purchasers for value and without notice of the lien, judgment creditors, and lienholders, the Job Service North Dakota will file a notice of lien either (1) in the central indexing system or (2) with the recorder. In either method, the attorney general, upon request of Job Service North Dakota, may bring suit without bond to foreclose the lien.

The noncharging of benefits paid to an individual against the accounts of base-period employers is prohibited if benefit payments are financed under a reimbursable method.

The noncharging of benefits paid to an individual against the accounts of base-period employers is prohibited if an overpayment of unemployment compensation benefits results from (1) the employer, or the agent of the employer, failing to respond timely or adequately to the request from the bureau for information relating to a claim for unemployment compensation and (2) the employer, or agent of the employer, has established a demonstrated pattern of failing to respond to such requests. The overpayment language just mentioned applies to overpayments established after October 21, 2013.

The 15-percent penalty on the amount of overpaid benefits must be deposited into the state Unemployment Compensation Fund.

The amount of \$12,407,000 in Reed Act monies is appropriated for the period beginning July 1, 2013, and ending June 30, 2015, for developing a modernized unemployment insurance computer system.

Nonmonetary eligibility. The provisions relating to labor disputes are modified by disqualifying an individual for benefits for any week that the individual's unemployment is because of any kind of labor dispute, including a strike, sympathy strike, or lockout, provided that this disqualification does not apply if (1) the individual is not participating in or directly interested in the labor dispute and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, members were employed at the premises at which the labor dispute occurs, any of whom are participating in or directly interested in the labor dispute, provided that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department must be deemed to be a separate factor, establishment, or other premises. (Previously, the law provided for a disqualification for benefits for any week the individual's unemployment is due to a strike, sympathy strike, or a claimant's work stoppage dispute of any kind that exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed, provided that this disqualification does not apply if (1) the individual is not participating in or directly interested in the labor dispute that caused the strike, sympathy strike, or a claimant's work stoppage dispute of any kind and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, members were employed at the premises at which the strike, sympathy strike, or a claimant's work stoppage dispute of any kind occurs, any of whom are participating in or directly interested in the dispute and provided that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department must be deemed to be a separate factory, establishment, or other premises.)

Overpayments. An individual who has made a false statement to obtain unemployment compensation to which not lawfully entitled will be assessed a monetary penalty of 15 percent of the amount of fraudulent benefits overpaid. The penalty must be applied to all forms of state and federal unemployment compensation.

Oklahoma

Administration. During the process of filing an initial claim for unemployment benefits, the claimant will be made aware of the definition of misconduct and will affirmatively certify that the answers given to all questions in the initial claim process are true and correct to the best of the claimant's knowledge and that the claimant has not intentionally withheld or misrepresented information to receive benefits to which he or she is not entitled.

Appeals. If no proof exists from the post office of the date of mailing, then the date of receipt by the Oklahoma Employment Security Commission will constitute the date of mailing.

If the claimant fails to appeal an overpayment determination within the time provided, the claimant must show good cause for untimely filing to request further appeals.

An employer's untimely request for a review of a determination or written protest for an appeal may be allowed for good cause.

The party appealing an order to the district court must notify all opposing parties or their attorneys and the director of the Appellate Division of the Oklahoma Employment Security Commission, and the Petition for Review must include

- the petitioner or entity filing the petition
- the assessment board as a respondent
- all other parties in the proceeding before the assessment board as respondents.

The director of the Appellate Division (previously the designated hearing officer) must process the petition for review and provide transcripts to the appropriate district court and the required parties.

Financing. The written notice sent to an employer after an initial or additional claim must be sent to the employer for whom the claimant last worked at least 15 working days; the days need not be consecutive.

The number of years required for an employer to qualify for experience rating is reduced from 3 years to 1 year.

Nonmonetary eligibility. An individual will be disqualified for benefits if he or she has been discharged for misconduct connected with his or her last work. If discharged for misconduct, the employer will have the burden to prove that the employee engaged in misconduct. Such burden of proof is satisfied by the employer, or its designated representative, providing a signed affidavit or presenting such other evidence that properly demonstrates the misconduct that resulted in the discharge. Once this burden is met, the burden then shifts to the discharged employee to prove that the facts are inaccurate or that the facts as stated do not constitute misconduct.

Misconduct includes the following:

- Unexplained absenteeism or tardiness
- Willful or wanton indifference to or neglect of the duties required
- Willful or wanton breach of any duty required by the employer
- The mismanagement of a position of employment by action or inaction
- Actions or omissions that place the health, life, or property of self or others in jeopardy
- Dishonesty
- Wrongdoing
- Violation of a law or a violation of a policy or rule adopted to ensure orderly work or the safety of self or others

In any challenge to a positive drug or alcohol test, the claimant has the burden to prove that the test was not properly conducted. (Previous law provided that the claimant has the burden to prove a breach in the chain of custody.)

Oregon

Administration. The term “rehire” means an individual who was laid off, separated, furloughed, granted a leave without pay, or terminated from employment for more than 60 days (previously 45).

Extensions and special programs. With respect to the self-employment assistance program, “regular benefits” does not mean additional benefits or extended benefits unless otherwise allowed under the federal–state Extended Unemployment Compensation Act of 1970, or other benefits unless otherwise authorized under federal law.

Self-employment assistance allowance amounts will be paid from the Unemployment Compensation Benefit Fund or from federal benefits.

An individual may receive the self-employment assistance allowance in lieu of

- regular benefits for a period of not more than 26 weeks
- extended benefits or other unemployment insurance benefits allowable under federal law for an additional period of not more than 26 weeks.

The total period for which an individual may receive regular benefits, extended benefits, or other unemployment insurance benefits allowable under federal law is reduced by the number of weeks for which the individual receives the self-employment assistance allowance in lieu of regular benefits, extended benefits, or other unemployment insurance benefits.

Deleted is the provision that the sum of the self-employed assistance allowance paid and the regular benefits paid with respect to any benefit year will not exceed the maximum benefit amount payable under state law with respect to that benefit year.

The number of individuals receiving the self-employment assistance allowance at any time may not exceed with respect to individuals receiving self-employment assistance allowance in lieu of

- regular benefits, 5.0 percent of the number of individuals receiving regular benefits
- extended benefits, 1.0 percent of the number of individuals receiving extended benefits.

The self-employment assistance allowance will be charged to employers in the manner provided for the charging of regular benefits or extended benefits.

Financing. Notwithstanding any other provision, benefits paid to an individual will be charged to an employer's account if

- the employer, or the employer's agent, fails to respond timely or adequately to a request for information relating to the claim for benefits;
- the failure to respond causes an overpayment of benefits to the claimant; and
- the employer, or the employer's agent, has a pattern of failing to respond timely or adequately to requests for information relating to claims for benefits.

Monetary entitlement. The alternative base period (the last four completed calendar quarters) will be used in the case of an individual who is not eligible for benefits using the regular base period, if use of the last four completed calendar quarters makes the individual eligible for benefits.

Overpayments. The director of the Employment Department may enter into an agreement with the federal government for offsetting unemployment compensation debt against a federal tax return. The director may request an offset if the

- debt is legally enforceable and past due;
- debt was caused by a willful false statement or misrepresentation, or willfully failing to report a material fact to obtain benefits;
- appeal period to contest the debt has expired; and
- director has provided at least 60 days advance written notice that the debt will be offset and that the individual has a right to request an administrative review.

The director may pay fees charged by the federal government or the state Department of Revenue for processing the offset request. The net amount collected after fees have been paid will be offset against the individual's debt.

The director must adopt rules consistent with federal requirements that establish requirements for the advance written notice and procedures for obtaining an administrative review.

The 60-day advance notice is not valid unless it is sent on or after April 18, 2013, and the department may not request an offset until 60 days after April 18, 2013.

Pennsylvania

Financing. The Service and Infrastructure Improvement Fund is added as another fund into which employee contributions will be deposited.

The allocation of employee contributions among the three funds changes as follows:

1. Five percent of employee contributions paid from January 1, 2013, through September 30, 2017, will be allocated to and deposited into the Reemployment Fund to the extent the contributions are paid on or before December 31, 2017. (Previous law required that 95 percent of employee contributions be allocated and deposited into the Unemployment Compensation Fund.)

2. During each calendar year from 2013 through 2016, an amount determined by the secretary with the approval of the governor will be deposited into the Service and Infrastructure Improvement Fund. For calendar year 2013, the amount determined may not exceed \$40,000,000. For calendar year 2014, the amount determined may not exceed \$30,000,000. For calendar years 2015 and 2016, the amount determined for each calendar year may not exceed \$190,000,000 adjusted by the increase in the U.S. Bureau of Labor Statistics Consumer Price Index for the period from May 2013 through January of the calendar year less the amount of federal administrative funding for the preceding federal fiscal year. (Previous law required that 100 percent of the contributions on wages paid from January 1, 2013, through September 30, 2017, will be deposited into the Unemployment Compensation Fund to the extent the contributions are paid on or after January 1, 2018.)

3. The remaining contributions will be deposited into the Unemployment Compensation Fund. (Previous law required that 100 percent of the contributions on wages paid on or after October 1, 2017, will be deposited into the Unemployment Compensation Fund.)

4. The Department of Labor and Industry is allowed to deposit contributions in accordance with clause 2 (of this list) before depositing contributions in accordance with clauses 1 and 3 (of this list).

A restricted account in the state treasury to be known as the Service and Infrastructure Improvement Fund is established that will consist of employee contributions deposited into the fund under clause 2. Moneys in the Service and Infrastructure Improvement Fund are appropriated continually, upon approval of the governor, to the department to be prioritized for the following purposes:

1. To improve the quality, efficiency, and timeliness of services provided by the service center system to individuals claiming compensation, including claim filing, claim administration, adjudication services, and staffing and training of system employees

2. Expenditures for information management technology, communications technology, and other infrastructure components that are likely to result in significant and lasting improvements to the unemployment compensation system

3. To pay the costs of collecting the contributions deposited into the Service and Infrastructure Improvement Fund

Consistent with the merit staffing requirement of Section 303(a)(1) of the Social Security Act (49 Stat. 620, 42 U.S.C. Section 503(a)(1)), no moneys in the Service and Infrastructure Improvement Fund may be expended or obligated to a third party to perform unemployment compensation services of the department, except services relating to technology and infrastructure components deemed necessary.

Any moneys in the Service and Infrastructure Improvement Fund that are not expended or obligated as of December 31, 2018, will be transferred to the Unemployment Compensation Fund.

Moneys in the Service and Infrastructure Improvement Fund will not lapse at any time or be transferred to any other fund except as otherwise provided.

No later than June 30 of each calendar year from 2014 through 2019, the department will provide a report to the governor and the general assembly, through the secretary-parliamentarian of the U.S. Senate and the chief clerk of the House of Representatives, regarding the Service and Infrastructure Improvement Fund, of which the report will include an accounting for the contributions deposited into the fund, the expenditures and transfers from the fund during the prior year, and a description of the purposes for which expenditures from the fund were made in the prior year.

Rhode Island

Administration. Any state Department of Labor and Training employee guilty of violating the confidentiality provisions of employment records and reports will be subject to the established penalties, provided that nothing contained in certain provisions will be construed to prevent the director of the Department of Employment and Training from providing data on unemployment insurance recipients or any other data contained in departmental records that is obtained from an individual to the department's designated research partners for its workforce data quality and workforce innovation fund initiatives. The provision of these records will be done according to an approved data-sharing agreement between the department and its designated research partners that protects the security and confidentiality of these records and through procedures established by protocols, rules, and/or regulations as determined necessary by the director and appropriately established or promulgated.

Notwithstanding any other provisions to the contrary, the department may provide employee quarterly wage information to the department's designated research partners for workforce data quality and workforce innovation fund initiatives. The provision of these records will be done according to an approved data-sharing agreement between the department and its designated research partners that protects the security and confidentiality of these records and through procedures established by protocols, rules, and/or regulations as determined necessary by the director and appropriately established or promulgated.

City housing authorities are granted the power to request and receive income information from state and federal departments and agencies relating to unemployment compensation, child support, alimony, supplemental nutritional assistance, and public welfare payments to be held in strict confidentiality by the authority and shared as part of the Department of Housing and Urban Development's earned income information system for determining the current income of any applicant with regard to rental calculations.

Extensions and special programs. The "Back to Work Rhode Island Program" is established that will be administered by the Department of Labor and Training, begins on October 1, 2013, and expires on December 31, 2014. New participants will not be enrolled after November 18, 2014.

The program will be designed to permit a claimant to be matched with an employer participating in the program and be placed in department-approved skill enhancement and job training made available by the employer. Both claimant and employer participation will be voluntary. The employer will provide the claimant with skill enhancement and job training relevant to an open employment position for up to 24 hours per week for up to 6 weeks. Once the claimant completes the 6-week period, the employer must consider claimant for employment. During the 6-week period, the claimant will only be compensated via the training received through participation in the program. Both the employer and the claimant may terminate participation in the program at any time.

Notwithstanding any other provisions to the contrary, no otherwise eligible individual will be denied unemployment benefits because of his or her participation in the "Back to Work Rhode Island Program"; provided, however, that upon appropriation, the claimant may receive a reasonable stipend in a determined amount to cover any additional costs associated with participation in the program, including transportation or childcare costs. Claimants may stay in the program if they exhaust benefits or lose program eligibility prior to the end of the 6-week period.

Claimant participation will be limited to 6 weeks in any benefit year. A claimant will be encouraged to end a training relationship that is not beneficial and will be encouraged to preserve the remainder of his or her 6 weeks of training for another training opportunity. To participate, a claimant must be seeking work, be able and available to work, and accept work during the training period.

Interested claimants will be encouraged, but not required, to find employment opportunities that align with their current job skills, knowledge, and experience. Employers will be encouraged to work with the department to locate claimants with current job skills, knowledge, and experience that align with the requirements of an open employment opportunity. The claimant and the employer must agree on a formal training plan and schedule that must be approved by the department and may include onsite training, education, and the application of skills or experiences. Participation in the program may be limited based on program capacity as determined by the department.

Financing. The 15-percent penalty assessed on the amount of the overpayment because of fraud will be immediately deposited into the state Unemployment Security Fund.

An employer's account will not be relieved of charges relating to any benefit payments made if, on or after October 1, 2013, the payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request for unemployment benefits claim information.

Each reimbursable nonprofit organization or group of those organizations, or governmental entity, will be liable to reimburse the state Employment Security Fund (trust fund) for any benefit payments made if, on or after October 1, 2013, the payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request for information relating to the claim for unemployment benefits that was subsequently overpaid.

Overpayments. Beginning October 1, 2013, whenever an erroneous payment is made to an individual because of fraud committed by the individual, that individual will be assessed a penalty equal to 15 percent of the amount of the erroneous payment. The Department of Labor and Training by agreement with another state or the United States may recover any overpayment of benefits paid to any individual under the laws of the state or of another state or under an unemployment benefit program of the United States. Any overpayments may be recovered by deduction from any future benefits payable to the individual under the laws of the state or of another state or under an unemployment benefit program of the United States. With respect to payment of benefits pending appeal if, beginning on or after October 1, 2013, an erroneous payment was made to an individual because of fraud committed by the individual resulting in an overpayment and that overpayment is eligible to be recovered, that individual will also be liable to pay penalties equal to 15 percent of the amount of the erroneous payment.

Temporary disability insurance. Within the state temporary disability insurance program, a temporary caregiver insurance program is established to provide wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent or to bond with a new child.

Temporary caregiver benefits will be available only to the employee exercising his or her right to leave while covered by the temporary caregiver insurance program commencing on or after January 1, 2014, that will not exceed the individual's maximum benefits. Employees cannot file for both temporary caregiver benefits and temporary disability benefits for the same purpose, concurrently. The benefits for the temporary caregiver program will be payable with respect to the first day of leave taken after the waiting period and each subsequent day of leave during that period of family temporary disability leave. Beginning January 1, 2014, temporary caregiver benefits will be limited to a maximum of 4 weeks in a benefit year. In addition, no individual will be paid temporary caregiver benefits and temporary disability benefits that together exceed 30 times his or her weekly benefit rate in any benefit year.

Any employee who exercises his or her right to leave covered by temporary caregiver insurance will, upon the expiration of that leave, be entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment including fringe benefits and service credits that the employee had been entitled to at the commencement of leave.

During any caregiver leave taken, the employer will maintain any existing health benefits of the employee in force for the duration of the leave as if the employee had continued in employment continuously from the date he or she commenced the leave until the date the caregiver benefits terminate, provided, however, that the employee will continue to pay any employee shares of the cost of health benefits as required prior to the commencement of the caregiver benefits.

Temporary caregiver benefits will be in accordance with the federal Family and Medical Leave Act and the Rhode Island Family Parental and Family Leave Act.

An individual who exercises his or her right to leave covered by the temporary caregiver insurance program will file a certificate form with all information required, and the Department of Labor and Training will notify the claimant if the claim is valid or invalid.

Information pursuant to any individual's temporary disability claim or temporary caregiver insurance claim will be held confidential in accordance with state law and all applicable state and federal regulations.

The temporary caregiver insurance program will be part of the temporary disability insurance fund.

The provision provides for a penalty equal to 25 percent of the benefits paid because of a false certification by any individual. In addition, it provides for the suspension of the processing of all further certifications if a physician or other qualified healthcare provider licensed by a foreign country is under investigation for assisting in the filing of false claims until the licensed qualified healthcare provider fully cooperates and continues to cooperate with the investigation. A qualified healthcare provider licensed by and practicing in a foreign country who has been convicted of filing false claims will be barred indefinitely from filing a certificate in support of a temporary disability insurance or temporary caregiver insurance claim in the state of Rhode Island.

To the extent that federal funds are made available under Title III of the Social Security Act for the expenses of administering Chapter 39-41, the provision provides that expenses of administration of the law will be paid from those funds, provided that any expenditure of funds from the employment security administration account contrary to law will not be permitted. If the Social Security Act is amended to permit funds granted under Title III to be used to pay expenses of administering a sickness compensation law, such as Chapter 39-41, then from and after the effective date of that amendment, the expenses of administering those chapters will be paid from the employment security administration account or any other account or fund in which funds granted under Title III are deposited.

South Carolina

Administration. "New hire" includes an individual newly employed or an individual who has been rehired who was separated for at least 60 consecutive days or has returned to work after being laid off, furloughed, separated, granted leave without pay, or terminated from employment for at least 60 consecutive days.

The Department of Employment and Workforce, as soon as practicable, must fully implement an online employer prefilling program that allows employers to address potential claims for benefits by one of the employer's former employees and must report progress on implementation upon request by the

Chairman of the Senate Labor, Commerce and Industry Committee, or the Chairman of the House Labor, Commerce and Industry Committee.

Financing. The 60 percent of 25 percent (15 percent) of the monetary penalty due on fraudulent claims must be deposited into the state Unemployment Compensation Fund.

Notwithstanding any other provision of law, the department after October 21, 2013, will not relieve the charging of benefits to an employer's account when the overpayment has been made to a claimant and both of the following conditions apply:

1. The overpayment occurred because the employer was at fault for failing to respond timely or adequately to a written request of the department for information relating to an unemployment compensation claim.
2. The employer exhibits a pattern of failure to respond timely or adequately to requests from the department for information relating to unemployment compensation claims on three or more occasions, or 3 percent of requests made, within a single calendar year, whichever is greater; if
 - an employer uses a third-party agent to respond on its behalf to the request for information relating to an unemployment compensation claim, the agent's actions on behalf of the employer will be considered when determining a pattern of behavior;
 - a response is considered untimely if it fails to meet the time as prescribed in the statute or in the regulations; or
 - a response is considered inadequate if it fails to provide sufficient facts for accurately determining benefits that do not result in an overpayment.

However, a response may not be inadequate if the department fails to request the necessary information.

The employer's account will be charged for each week of unemployment compensation that is an overpayment because of the employer's fault until the individual is no longer eligible for unemployment compensation and stops making such payments.

If the claim is a combined wage claim, the paying state will determine whether to charge for the combined wage claim. If the response from the employer does not meet the criteria established by the paying state for an adequate or timely response, the paying state must promptly notify the transferring state of its determination, and the employer must be appropriately charged.

The charging of benefits to an employer's account must be waived when the employer failed to timely or adequately respond because of good cause.

Effective October 1, 2013, a special fund is created in the state treasury to be known as the Department of Employment and Workforce integrity fund that will consist of monetary penalties collected on overpayments because of fraud to promote unemployment compensation integrity. The integrity fund will be used for preserving the integrity of the Unemployment Compensation Fund, including identifying overpayments, verifying eligibility, determining status, and updating technology and educational tools to support integrity activities. All money collected in the integrity fund must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the state treasury, except that money in this fund must not be commingled with other state funds but must be maintained in a separate account. All money in this fund must be expended solely for promoting unemployment insurance integrity efforts by the department.

Overpayments. Notwithstanding any other provision of law, if an improper payment from the Unemployment Compensation Fund or from any federal Unemployment Compensation Fund was made

to any individual because of a false statement or failure to disclose a material fact, after October 21, 2013, the department will assess a monetary penalty of 25 percent of the amount of the overpayment.

The recovered amounts will be applied with priority to (1) the principal amount of the overpayment to the Unemployment Compensation Fund, (2) 60 percent of the 25-percent monetary penalty (15 percent) to the Unemployment Compensation Fund, (3) the remaining 40 percent of the 25-percent monetary penalty (10 percent) to promote unemployment compensation integrity, and (4) any remaining amounts to interest.

The offset of future unemployment insurance benefits will not be applied to the monetary penalty or interest associated with an overpayment.

South Dakota

Financing. Any penalties collected on overpayments because of fraud must be deposited into the state Unemployment Trust Fund.

The experience rating account of any employer may not be relieved of benefit charges if an erroneous payment has been made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request for information relating to the payment of benefits. An erroneous payment is a payment that would not have been made but for the failure of the employer, or the employer's agent, to fully respond to the request for information.

Overpayments. The duration of disqualification for fraudulent misrepresentation is changed. Benefits are now denied for weeks of otherwise compensable unemployment (previously, from not less than 1 week and not to exceed 52 weeks) on and after the date such misrepresentation or fraudulent act is discovered.

In addition to any penalty imposed for fraudulent misrepresentation, a 50-percent penalty is imposed on the amount of benefits obtained by willful or fraudulent misrepresentation for the first offense and a 100-percent penalty is imposed on the amount of benefits for each subsequent fraudulent offense.

Tennessee

Appeals. The Department of Labor and Workforce Development will hold annual training for all unemployment hearing officers. Such training will include updates on any new laws or regulations involving employment security law enacted by the state or federal government.

Monetary entitlement. The alternative base period of the last four completed calendar quarters used for establishing a base year is deleted, effective July 1, 2013.

“Base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, provided that if the first quarter of the last five completed calendar quarters was included in the base period applicable to any individual's previous benefit year, the individual's base period will be the last four completed calendar quarters. To establish a base period in cases involving persons receiving workers' compensation benefits for temporary total disability, the department will exclude periods of such disability from the base period and determine the base period from the last four completed quarters of work before any such disability, effective July 1, 2013.

The provisions are deleted that provide for dependent's allowances of \$15, not to exceed \$50, for each unemancipated minor child of the claimant who is wholly or mainly supported by the claimant and is less than 18 years of age and meeting other conditions, effective July 1, 2013.

Nonmonetary eligibility. “Misconduct” also includes any conduct constituting a criminal offense for which the claimant has been convicted or charged that involves dishonesty arising from the claimant’s employment or the claimant has committed while he or she was acting within the scope of employment.

The language is deleted that provides a claimant otherwise eligible will not be deemed ineligible for benefits solely for the reason that the claimant seeks, applies for, or accepts only part-time work instead of full-time work, if the part-time work is for a minimum of 20 hours a week.

“Making a reasonable effort to secure work” means the claimant will provide detailed information regarding contact with at least three employers a week or will access services at a career center created by the department. The administrator, Division of Employment Security, will conduct random verification audits of 1,500 (previously 1,000) claimants weekly to determine if claimants are complying with the requirement of contacting at least three employers per week or accessing services at a career center.

Notwithstanding any other provision of law to the contrary, if a claimant continuously employed part time by a reimbursing employer continues to be employed by the reimbursing employer while separated from other employment and is eligible for benefits, any benefits paid will not be considered attributable to the service with the reimbursing employer.

“Reimbursing employer” means an eligible employer that elects to reimburse the state for benefits paid in lieu of premiums, applicable to unemployment benefits accruing on or after April 16, 2013.

Overpayments. There will be no 1-year limitation asserted on the agency representative reconsidering a decision if a claimant is subsequently convicted of a misdemeanor or felony that caused the separation from the employer, provided the employer notifies the agency of the conviction in a reasonable time. Any overpayment resulting from a reconsideration because a claimant is subsequently convicted of a misdemeanor or felony that caused the separation from the employer will be determined as fraudulent and the administrator will not waive repayment of the overpaid amounts.

The administrator is permitted to waive the collection of any overpayment because of fraud, misrepresentation, or willful nondisclosure on the part of the person who was overpaid and any overpayment that is outstanding after the expiration of 6 years from the date of determination of the overpayment. (Previous law required the administrator to waive the collection of such overpayment.)

The administrator is permitted to waive the collection of any overpayment that is not due to fraud, misrepresentation, or willful nondisclosure on the part of the person who was overpaid and any overpayment that is outstanding after the expiration of 6 years from the date of determination of the overpayment. (Previous law required the administrator to waive the collection of such overpayment.)

If the administrator waives the collection, such waiver will only be made according to the law and established procedures pursuant to the law.

Texas

Administration. The provisions of the labor code relating to professional employer organizations have been modified. The name “staff leasing services companies” is changed to the name “professional employer organizations.” (Under previous law, the term “staff leasing services company” included a professional employer organization.) “Professional employer organization” means a business entity that offers professional employer (previously, staff leasing) services. “Professional employer services” means the services provided through coemployment relationships in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees. “Client” (previously “client company”) means any person who enters into a professional employer services agreement with a license holder. “Coemployer” means a professional employer organization or

a client that is a party to a coemployment relationship. “Coemployment” relationship means a contractual relationship between a client and a professional employer organization that involves the sharing of employment responsibilities with or allocation of employment responsibilities to covered employees in accordance with the professional employer services agreement and the Texas unemployment compensation law. “Covered employee” means an individual having a coemployment relationship with a professional employer organization and a client. The tax code is modified to reflect the changes made to the labor code modifying the professional employer organization provisions.

Coverage. The term “employment” excludes service in the employ of a political subdivision or of an instrumentality of a political subdivision that is wholly owned by one or more political subdivisions as an election official or worker if the remuneration received by the individual during the calendar year is less than \$1,000.

Financing. If a reimbursing employer pays a reimbursement to the Texas Workforce Commission for benefits paid to a claimant that are not according to the final determination or decision, the employer is not entitled to a refund of, or credit for, the amount paid by the employer to the commission unless the employer has complied with the following requirements with respect to the claimant:

- A notification provided by a person including an initial response to a notice mailed to the person for whom the claimant last worked must include sufficient factual information to allow the commission to determine the claimant’s entitlement to benefits.
- Notwithstanding the chargeback provisions, benefits paid to a claimant that are not according to the final determination or decision will be charged to the account of a person if
 1. the person, or the person’s agent, without good cause, fails to provide adequate or timely notification; and
 2. the commission determines that the person, or the person’s agent, has failed to provide timely or adequate notification on at least two prior occasions.
- A notification is not adequate if the notification merely alleges that a claimant is not entitled to benefits without providing sufficient factual information, other than a general statement of the law, to support the allegation.
- Good cause is established only by showing that a person, or the person’s agent, was prevented from complying because of compelling circumstances that were beyond the person’s control.
- The commission may adopt rules as necessary to implement this requirement.

Except as provided in the next sentence, a chargeback may not be made to an employer’s account because of payments having been made under a determination or decision to the claimant for any benefit period with regard to which the claimant is finally denied benefits by a modification or reversal of the determination or decision. A chargeback will be made to an employer’s account for benefits paid to a claimant that are not according to the final determination or decision if the benefits were paid because of the failure of the employer, or the employer’s agents, to respond adequately or timely to the notice for claimant information.

The law changes just described apply only to a final determination that the Texas Workforce Commission made on or after October 1, 2013, that a person received an erroneous payment.

Benefits computed on benefit wage credits of an employee or former employee may not be charged to the account of an employer if the employee’s last separation from the employer’s employment before the employee’s benefit year was due to a reason that (a) constitutes an involuntary separation and (b) does not constitute good cause connected with the employee’s work for the employee to voluntarily

leave the employment, applicable only to a claim for unemployment compensation benefits filed on or after September 1, 2013.

Benefits will not be charged to an employer if the employee left the workplace to protect the individual or a member of the individual's immediate family from sexual assault.

Benefits computed on benefit wage credits of an employee may not be charged to the account of an employer if the employee continues to work the employee's customary hours for the employer when the employee's benefit year began. This provision does not apply to a claim for unemployment benefits made under the shared-work unemployment compensation program, applicable only to a claim for unemployment compensation benefits filed on or after September 1, 2013.

The 15-percent penalty collected on the amount of benefits received because of fraud must be deposited into the state's Unemployment Compensation Fund.

Benefits computed on benefit wage credits of an employee or former employee may not be charged to the account of an employer if (1) the employment did not constitute suitable work for the employee, and (2) the employee worked for the employer for less than 4 weeks, applicable only to a claim for unemployment compensation benefits filed on or after September 1, 2013.

Benefits may not be charged to the account of an employer, regardless of whether the liability for the chargeback arises in the employee's current benefit year or in a subsequent benefit year, if the employee's last separation from the employer's employment before the employee's benefit year was or would have been excepted from disqualification because of leaving work to enter training if the work was not suitable employment or leaving work to attend commission-approved training and the individual's last work did not constitute suitable work, applicable only to a claim for unemployment compensation benefits filed on or after September 1, 2013.

Notwithstanding the provisions relating to the use of requisitioned money or any other certain provision of law, the Texas Workforce Commission, under an agreement with or waiver by the U. S. Secretary of Labor, may use money requisitioned from the state's account in the federal trust fund to conduct demonstration projects for the reemployment of unemployed individuals in the manner prescribed by that agreement or waiver and consistent with any applicable requirements under federal law. The commission will provide to the legislative standing committees with primary jurisdiction over the commission any evaluation reports required by the U.S. Department of Labor for a reemployment demonstration project.

Nonmonetary eligibility. The disqualification for voluntarily leaving work provisions under the unemployment compensation law is modified to reflect the modification to the labor code relating to the professional employer organization provisions by replacing the term "staff leasing services company" with the term "professional employer organization" and the term "assigned employee" with the term "covered employee."

An unemployed individual must actively seek work to be eligible for unemployment compensation benefits.

For benefit claims filed on or after September 1, 2013, an individual is not disqualified from benefits if the separation from employment was to protect the individual or a member of the individual's immediate family against sexual assault and defines immediate family as an individual's spouse, child under the age of 18, or parent.

A written documentation from a family violence center or rape crisis center that describes the sexual assault is added to the types of documentation that may be used to provide evidence for benefit determination.

An individual for whom suitable work is in an occupation that regularly conducts preemployment drug testing must comply with the requirements of the drug screening and testing program. The Texas Workforce Commission is authorized to adopt rules to determine the type of work for which the drug testing would be a condition of eligibility.

A drug testing program is established that must

- comply with the requirements of 49 C.F.R., Part 382, established by the U.S. Department of Transportation, or other similar national requirements for drug testing;
- be designed to protect the rights of benefit applicants and recipients;
- include an assessment completed by the individual applying for benefits;
- require an individual to pass a drug test as a condition of eligibility if the results of the drug screening assessment indicate a reasonable likelihood of use; and
- require that any individual who fails to pass a drug test is ineligible for benefits until passing a subsequent drug test no earlier than 4 weeks after failing the drug test.

An individual who fails a drug test is not ineligible for benefits if he or she

- is participating in a drug abuse treatment program
- enrolls in and is attending a treatment program within 7 days of the date the notice is sent
- uses of a substance prescribed by a healthcare practitioner as medically necessary.

The commission must establish procedures for the initial notice to the individual who has failed a drug test. The notice includes

- instructions on how to file an appeal or communicate enrollment and attendance in a treatment program
- directions that the individual has 14 days from the date the notice is mailed to appeal and retake the drug test
- clarification that the determination that a drug test was failed is final on the 15th day after mailing the notice if there is no appeal, the individual does not retake the drug test, or the retest confirms the positive drug test result.

The drug testing requirements apply to claims for benefits filed on or after February 1, 2014.

The commission may delay implementation of a provision if a waiver or authorization from a federal agency is necessary.

An individual who voluntarily leaves the individual's last work is not disqualified for benefits if (1) at the time the last work began, the individual was receiving benefits; (2) the work did not constitute suitable work for the individual; and (3) the individual was employed at the last work for less than 4 weeks. (Provision applies only to a claim for unemployment compensation benefits filed on or after September 1, 2013.)

An individual is not disqualified for benefits if (1) the individual left the individual's last work to attend commission-approved training and (2) the individual's last work did not constitute suitable work for the individual. (Provision applies only to a claim for unemployment compensation benefits filed on or after September 1, 2013.)

The provisions providing that an individual is disqualified for benefits for the period for which he or she left his or her most recent work to attend an established educational institution and providing that this disqualification does not apply to a period in which the individual is in training with the approval of the commission are repealed. (Provision applies only to a claim for unemployment compensation benefits filed on or after September 1, 2013.)

Overpayments. The Texas Workforce Commission will require a person who receives benefits because of fraud associated with willful nondisclosure or misrepresentation of a material fact to pay a

penalty equal to 15 percent of the amount of benefits received fraudulently. The penalty may be collected in the same manner as provided for the collection of past-due contributions.

Utah

Financing. For calendar year 2013, if the calculation of the social contribution rate is greater than 0.004, the social contribution rate for that calendar year is 0.004.

Beginning October 1, 2013, 15 percent of a civil penalty for fraud collected on a fraud overpayment will be deposited into the state's Unemployment Compensation Fund.

Nonmonetary eligibility. An individual located in a foreign country for 3 or more days of a week and who is otherwise eligible for benefits is only eligible to receive benefits for that week if (1) the individual is legally authorized to work in the foreign country and (2) the state and the foreign country have entered into a reciprocal agreement concerning the payment of unemployment benefits.

Overpayments. An individual is ineligible for benefits for each week benefits are obtained by willfully making a false statement or representation or by knowingly failing to report a material fact, and a penalty of no more than 49 additional weeks as follows:

1. 13 weeks for the first week the false statement or representation was made or fact withheld to receive a benefit
2. 6 weeks for each additional week the false statement or representation was made or fact withheld to receive a benefit

The additional penalty weeks will begin on the Sunday of the week the determination finding the claimant in violation is issued. (Previously, an individual is ineligible for benefits for each week with respect to which the claimant willfully made a false statement or representation or knowingly failed to report a material fact to obtain any benefit, and an additional 13 weeks for the first week the statement or representation was made or fact withheld and 6 weeks for each week thereafter; the additional weeks is not to exceed 49 weeks. The additional period will commence on the Sunday following the issuance of a determination finding the claimant in violation of this provision.) This requirement provides that each claimant found in violation of this provision will repay the overpayment and, as a civil penalty for fraud, an amount equal to the overpayment. The civil penalty for fraud amount will be treated as any other penalty, and the repayment of an overpayment and a civil penalty for fraud will be collectible by civil action or warrant.

Vermont

Administration. The Office of Legislative Council will study the issue of unemployment compensation, its application to newspaper carriers, and the relationship between state and federal exemptions to the unemployment compensation statutes and report its findings to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2014.

Coverage. The Vermont Department of Labor will not implement proposed rule 12P044, unemployment insurance coverage for direct sellers and newspaper carriers and will not propose or adopt any rule, issue any bulletin, or take any other action regarding unemployment compensation and newspaper carriers prior to July 1, 2014.

Financing. An employer is relieved of charges for benefits paid to an individual for any week of unemployment occurring because of a presidentially declared major natural disaster up to a maximum of 4 weeks, if the individual's unemployment is directly caused by such disaster and the individual would have been eligible for federal disaster unemployment assistance but for the receipt of regular benefits.

The department will establish a system to provide unemployment compensation tax relief to employers paying a higher rate of contributions because of layoffs directly caused by federally declared natural disasters occurring in year 2011. Unemployment compensation tax relief will be available to an employer if the employer's employees were separated from employment as a direct result of the disaster. Benefits paid beyond 8 weeks will remain chargeable to the employer. The tax relief will not be available to employers electing to make payments in lieu of contributions. Benefit charge relief will not result in the recalculation of previously assigned rate classes for non-disaster-impacted employers. The amount of \$60,000 is appropriated for the costs of postage and for hiring temporary positions necessary to implement the unemployment compensation tax relief program.

Virginia

Administration. Each employing unit must report the employment of any newly hired employee and submit information required by federal law concerning each newly hired employee to the Virginia New Hire Reporting Center within 20 days of the employment.

"Newly hired employee" means an individual in employment who (1) has not previously been in the employment of the employer or (2) was previously in the employment of the employer but has been separated from such prior employment for at least 60 consecutive days.

The Division of Child Support Enforcement will use the information received on any newly hired employee to locate individuals for establishing paternity and establishing, modifying, and enforcing child support obligations and may lawfully disclose such information to carry out such purposes.

Financing. A contributing employer's account will not be relieved of charges relating to an erroneous payment of benefits if the erroneous payment was made because the employer failed to respond timely or adequately to a written request for information relating to the claim and the employer has established a pattern of failing to respond timely or adequately to written requests for information relating to claims.

A \$75 civil penalty is assessed on a third determination within the applicable review period that an employer failed to respond timely or adequately to a written request for information relating to a claim. The payment of the penalties must be paid into the Special Unemployment Compensation Administration Fund.

The cost of benefits charged to any governmental entity, Indian tribe, or nonprofit entity that is a reimbursable employing unit will not include any credits of benefit overpayments actually collected if the overpayment was made because the entity, or its agent, was at fault for failing to respond timely or adequately to a written request for information relating to a claim and the entity, or agent, has established a pattern of failing to respond timely or adequately to such requests.

If the erroneous payment results from a combined-wage claim, the determination of noncharging for such claim will be made by the paying state. If the response from the employer does not meet the criteria established by the paying state for an adequate or timely response, the paying state will promptly notify the transferring state of its determination, and the employer will be appropriately charged. (These four provisions are applicable to erroneous payments established on or after July 7, 2013.)

The 15-percent penalties collected because of fraud overpayments will be paid into the state treasury and credited to the clearing account of the state's Unemployment Compensation Fund.

Nonmonetary eligibility. The definition of "misconduct" includes an employee's loss of or failure to renew a license or certification that is a requirement of the position held by the employee, provided the employer is not at fault for the employee's loss of or failure to renew the license or certification. The

Virginia Employment Commission is allowed to consider evidence of mitigating circumstances in determining whether misconduct occurred.

Overpayments. Each claimant will be provided notices containing the consequences of making false or misleading statements to obtain unemployment benefits. The notices will

- identify the penalties and sanctions to which any person is liable as a result of providing false or misleading statements to obtain benefits;
- inform the claimant that knowingly making a false statement or representation or knowingly failing to disclose a material fact, with intent to obtain or increase any benefit or other payment under this title, is punishable as a class 1 misdemeanor; and
- provide a summary of all remedies to collect overpayments made to a claimant because of making false or misleading statements to obtain benefits.

The notices will be included with the written statement advising claimants of their benefit rights and responsibilities following the filing of the initial claim. In addition, the notice will be provided to claimants at the time of the filing of initial and weekly claims by the same medium, including telephone or the Internet, that the claimant uses to file a claim. The failure of the claimant to receive any of the notices will not constitute a defense to any criminal prosecution for unemployment insurance fraud, to an administrative fraud disqualification, or to any overpayment of benefits that the claimant would be required to repay because of the fraudulent act or acts.

The term “benefits under this title” includes benefits under an unemployment benefit program of the United States or of any other state. Any person who has received any sum as benefits under an unemployment benefit program of the United States or of any other state to which he or she was not entitled will be liable to repay such sum to the commission. If the claimant does not refund the overpayment, the amount will be deducted from any future benefits under the law. If an overpayment of benefits under the state’s law, but not under any other state’s law or federal government program, is due to administrative errors, the Virginia Employment Commission will have authority to negotiate the terms of the repayment, including (1) deducting up to 50 percent of the payable amount for any future week of benefits claimed until the overpayment is satisfied, (2) forgoing collection of the payable amount until the recipient has found employment, or (3) determining and instituting an individualized repayment plan. The commission will collect an overpayment of benefits under the state’s law caused by administrative error only by offset against future benefits or a negotiated repayment plan; however, the commission may institute any other method of collection if the individual fails to enter into or comply with the terms of the repayment plan. In addition, the overpayment may be collectable by civil action, and civil action collections may be subject to an interest charge from the date of judgment and may be subject to fees and costs. Collection activities for overpayments of \$5 or less may be suspended. Any benefit overpayment that remains unpaid after the expiration of 7 years from the date such overpayment was determined or immediately upon the individual’s death or due to bankruptcy may for good cause be determined as uncollectible and discharged from the record.

An individual is disqualified for benefits for 52 weeks beginning with the date of the determination or decision if such individual within 36 calendar months immediately preceding such determination or decision has knowingly made a false statement or representation or has knowingly failed to disclose a material fact to obtain or increase any benefit or payment under this state or any other unemployment compensation of any other state or federal government program either for himself or any other person. Fraudulently obtained overpayments and the amount of the 15-percent penalty assessed will be recoverable as follows:

- The individual will be liable to repay such sum, and if not refunded, the amount will be deducted from any future benefits under an unemployment program of the United States or of any other state.

- If an overpayment of benefits under the state's law, but not under any other state law or the United States is due to administrative errors, the Virginia Employment Commission will have authority to negotiate the terms of the repayment, including

1. deducting up to 50 percent of the payable amount for any future week of benefits claimed until the overpayment is satisfied
2. forgoing collection of the payable amount until the recipient has found employment
3. determining and instituting an individualized repayment plan.

The commission will collect an overpayment of benefits under the state's law caused by administrative error only by offset against future benefits or a negotiated repayment plan; however, the commission may institute any other method of collection if the individual fails to enter into or comply with the terms of the repayment plan. In addition, the overpayment may be collectable by civil action, and civil action collections may be subject to an interest charge from the date of judgment and may be subject to fees and costs. Collection activities for overpayments of \$5 or less may be suspended. Any benefit overpayment that remains unpaid after the expiration of 7 years from the date such overpayment was determined or immediately upon the individual's death or due to bankruptcy may for good cause be determined as uncollectible and discharged from the record. (Previously, in addition to the 52-week disqualification, the individual was ineligible for benefits until the sum was repaid.)

A 15-percent penalty of the amount of overpayment to which any person is not entitled is assessed if the person is disqualified for benefits for knowingly making a false statement or representation or knowingly failing to disclose a material fact to obtain or increase any benefit or payment. The penalty applies to an erroneous payment made under any state program and any federal program providing for the payment of unemployment compensation.

When a recovery with respect to an erroneous payment is made, any recovery will be applied first to the principal of the erroneous payment, then to the penalty amount, and finally to any other amounts due.

Washington

Coverage. A corporate officer is not eligible for unemployment compensation benefits unless an employer elects to cover all its corporate officers. An employer must provide written notice to corporate officers that they are not eligible for unemployment insurance benefits. Failure to provide the notice will not change the status of corporate officers.

A corporate officer is eligible for unemployment compensation benefits if his or her covered base-year wages with the corporation are less than 25 percent of his or her covered base-year wages.

The term "employee" excludes any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street to offices, to businesses, or from house to house, and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.

The terms "employment" and "coverage" exclude services performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street to offices, to businesses, or from house to house, and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.

An employing unit is permitted to elect coverage of maritime service, exempting such service from mandatory coverage.

Except for services required to be covered under federal law, the term “employment” includes an individual’s entire service as an officer or member of a crew of an American vessel wherever performed and whether in intrastate, interstate, or foreign commerce, if the employer maintains within the state at the beginning of the pay period an operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed, and controlled.

Services performed in the following employment are exempt from coverage.

Services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat under which

- the individual does not receive any cash remuneration except as shown in the following two points;
- the individual receives a share of the boat’s (or the *boats*’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch; and
- the amount of the individual’s share depends on the amount of the boat’s (or the *boats*’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than 10 individuals.

Financing. An employer’s experience rating account will not be charged for an individual who continues regularly scheduled part-time employment with a base-year employer and who qualifies for two consecutive unemployment claims with wages attributable to at least one employer in both base years. Benefit charge relief ceases when the employment relationship ends. Benefit charge relief does not apply to shared-work employers or if the employment relationship with base-year employer ceases.

West Virginia

Financing. The amount of \$512,657 in Reed Act monies is appropriated to be used by WorkForce West Virginia specifically for the administration of the state’s unemployment insurance program or job service activities pursuant to federal law and the state’s unemployment compensation law.

Wisconsin

Extensions and special programs. A work-share program is established and defined as a program approved by the Department of Workforce Development under which the hours of work of two or more employees in the work unit are reduced in lieu of layoffs.

Any employer creating a work-share program must submit a plan for approval and certify that the plan complies with all requirements. The work-share plan must

- include the specific work unit, the affected positions, and the names of the employees filling those positions in which the plan will be implemented;
- provide for inclusion of at least 10 percent of the employees in the affected unit on the date the plan is submitted as well as initial coverage of at least 20 positions on the effective date of the program;
- specify the normal average hours per week worked and the percentage reduction in the average hours of work (applied uniformly with at least 10 percent but less than 50 percent) for each employee, exclusive of overtime hours;

- describe how federal requirements will be met, including a plan for giving notice to employees of schedule changes;
- estimate the number of layoffs that would be avoided;
- explain how fringe benefits will be affected other than fringe benefits required by law; contain a statement that the plan complies with all employer obligations under federal and state laws; and
- indicate if the plan will include training to enhance job skills and acknowledge that employees may participate in training.

The plan will not exceed a total of 6 months in any 5-year period within the same work unit and will include an equitable apportionment of the reduced working hours among employees in the program.

The plan will not include seasonal, temporary, or intermittent employees and applies only to employees who have been employed with the employer at least 3 months on the effective date of the plan and are regularly employed by the employer.

The plan becomes effective on the later of the Sunday of the second week after plan approval or the Sunday after the date specified in the plan, and ends 6 months after the effective date. The plan may be modified if the department approves it; the department may revoke the plan for good cause.

An employee participating in the work-share program will receive a weekly benefit amount reduced by the proportionate reduction in hours worked, not to exceed the maximum benefit entitlement for the benefit year, and eligibility for other benefits will not be affected by participation in the program.

An individual may work for an employer other than the employer that created the work-share plan but is not eligible for benefits any week that work hours exceed 90 percent of the average regular hours (for plan employer and/or another employer). The individual may receive the higher of the weekly benefit amount reduced proportionally under the work-share program or the partial benefit amount calculated after the reduction is made for earnings. Individuals participating in the work-share program are not required to be available for work other than the normal working hours or any additional training hours; are not required to register for work or complete work search activities; will continue to receive coverage under any defined benefit or defined contribution retirement plan and any health insurance coverage, including employer contributions, under the same terms and conditions as if the employee were not in the work-share program; and will not lose eligibility for benefits solely as a result of participation in the program.

The program terminates the second Sunday following the date the employer files notice with the department to discontinue the program or on the second Sunday following any week with fewer than 20 employees. A successor employer may continue the work-share program or terminate the program by filing notice.

The secretary of the department must seek full federal participation for the costs of administration of the program and may waive compliance with any requirement to ensure federal certification for grants under Title III of the Social Security Act or full federal financing for administration of the program. Implementation may be delayed no later than December 31, 2013, with approval of the Joint Committee on Finance.

Wyoming

Coverage. The definition of “employment” excludes services performed by an individual under the age of 18 or as a direct seller or independent contractor in the business of distributing or delivering newspapers or shopping news, excluding the delivery or distribution at any point for further delivery or distribution but including directly related services such as soliciting customers and collecting receipts, provided

- all or substantially all the individual's pay for the service, whether or not paid in cash, directly relates to sales or other output rather than to the number of hours worked; and
- the individual performs the service under a written contract with the newspaper or shopping news publisher that specifies that the individual will not be treated as an employee with respect to the services for federal tax purposes.

Financing. One-fourth (5 percent) of the 20-percent penalty collected on the initial penalty and all the additional penalties must be paid into the employment security revenue account; three-fourths (15 percent) of the amounts collected on the initial penalty must be paid into the state's Unemployment Trust Fund account.

An employer's account will not be relieved of charges relating to an erroneous payment from the Unemployment Compensation Fund after July 1, 2013, if

- the erroneous payment was made because the employer, or its agent, failed to respond within 15 days after a written notice was mailed or sent or failed to respond adequately with benefit claim information that resulted in the erroneous payment; and
- the employer, or its agent, has established a pattern of failing to respond timely or adequately to the written notice.

Overpayments. Any overpayment of benefits fraudulently received must be assessed a penalty of 20 percent (previously 5 percent) of the amount of overpayment and an additional 5-percent penalty on the remaining unpaid balance at the end of every 6 months.

Notes

¹ For more information, see Bipartisan Budget Act of 2013, Pub. L. No. 113-67 (2013), <http://www.gpo.gov/fdsys/pkg/PLAW-113publ67/html/PLAW-113publ67.htm>.

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